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TITLE 14

LOCAL GOVERNMENT

(CHAPTERS 54-103 IN VOLUME 10; CHAPTERS 104-182 IN VOLUME 11A; CHAPTERS 183-295 IN VOLUME 11B; CHAPTERS 296-387 IN VOLUME 12)

SUBTITLE 1. GENERAL PROVISIONS

SUBTITLE 2. COUNTY GOVERNMENT

SUBTITLE 3. MUNICIPAL GOVERNMENT

SUBTITLE 1. GENERAL PROVISIONS

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER.

Subchapter 1 — Sport Shooting Ranges and Facilities

SECTION.

14-1-101. Sport shooting ranges and sports facilities.

(a) A sport shooting range or sports facility that is not in violation of a state law or an ordinance of a local unit of government prior to the enactment of a new ordinance of a local unit of government affecting the range or facility may continue to operate even if, at or after the time of enactment of the new ordinance affecting the range or facility, the operation is not in compliance with the new ordinance.

(b) No new ordinance of a local unit of government shall prohibit a sport shooting range or sports facility that is in existence on August 12, 2005, from doing any of the following within its existing geographic boundaries:

(1) Repairing, remodeling, or reinforcing any building or improvement as may be necessary in the interest of public safety or to secure the continued use of the building or improvement;

(2)(A) Reconstructing, repairing, rebuilding, or resuming the use of a facility or building damaged by fire, collapse, explosion, act of nature, or act of war occurring after August 12, 2005.

(B) The reconstruction, repair, or rebuilding shall be completed within one (1) year following the date of the damage or settlement of any property damage claim. If reconstruction, repair, or rebuilding is not completed within one (1) year, the reconstruction, repair, or rebuilding may be terminated in the discretion of the local unit of government;

(3) Expanding or enhancing its membership or opportunities for public participation; or

(4) Reasonably expanding or increasing facilities or activities.

(c) Except as otherwise provided in this section, this section shall not prohibit a local unit of government from regulating the location and construction of a sport shooting range or sports facility.

(d) As used in this section:

(1) "Local unit of government" means a county, city of the first class, city of the second class, or incorporated town;

(2) "New ordinance" also includes an ordinance or an amendment to an existing ordinance;

(3) "Sport shooting range" means an area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting; and

(4)(A) "Sports facility" means a baseball field, basketball court, gymnasium, golf course, soccer field, swimming pool, tennis court, or other facility for recreational sports.

(B) "Sports facility" does not include a facility for go-carts, motorcycles, motor vehicles, or other motorized conveyances.

History. Acts 2005, No. 1011, § 1.

Subchapter 2 — Flags

14-1-201. Definitions.

As used in this subchapter:

(1)(A) "Flag of the United States" means the flag of the United States made of fabric, cloth, or paper suitable for display from a pole or staff, or in a window, and with dimensions not larger than ten feet (10') in length or eight feet (8') in width.

(B) "Flag of the United States" does not mean a depiction or emblem of the flag of the United States made in or of lights, paint, roofing, siding, paving materials, flora, balloons, or any other similar building, landscaping, or decorative components;

(2) "Legal right" means the freedom of use and enjoyment generally exercised by the owners and occupiers of land; and

(3) "Local government" means:

(A) A county;

(B) A city of the first class or city of the second class;

(C) An incorporated town; or

(D) Any other district or political subdivision or any board, commission, or agency of these political subdivisions.

History. Acts 2003, No. 1106, § 1.

14-1-202. Local government may not prohibit the flying of the flag of the United States.

(a) A local government shall not adopt any ordinance, regulation, or policy that prohibits or restricts a resident from properly displaying a

flag of the United States on the resident's person, property, or motor vehicle unless the flag is used as, or in conjunction with, an advertising display.

(b)(1) This section shall not prevent a local government from imposing reasonable restrictions as to the time, place, and manner of displaying the flag of the United States when necessary for the preservation of the public's health and safety or the public order.

(2) No restrictions solely to promote aesthetic considerations shall be imposed under subdivision (b)(1) of this section.

History. Acts 2003, No. 1106, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Local Government, Flying United States Flag, 26 U. Ark. Little Rock. L. Rev. 434.

14-1-203. Private entity may not prohibit the flying of the flag of the United States.

(a) Except as provided in subsection (b) of this section, no person, homeowners' association, property owners' association, or other private entity shall adopt any rule, regulation, or policy or shall enter into any agreement or protective covenant that prevents any person or private entity that would otherwise have the legal right to properly display a flag of the United States on private property from exercising that right.

(b)(1) Display of the flag may be restricted if the flag is used as, or in conjunction with, an advertising display.

(2) This section shall not apply to:

(A) Landlords of private rental property who operate fewer than twelve (12) rental units; and

(B) Property owned by churches or religious organizations.

History. Acts 2003, No. 1106, § 3.

14-1-204. Liability for costs and attorney's fees.

A prevailing party in an action to enforce the legal right to fly a flag of the United States shall be entitled to recover the court costs and reasonable attorney's fees incurred.

History. Acts 2003, No. 1106, § 4.

Subchapter 3 — Adult-Oriented Businesses in Proximity to Locations Frequented by Children

14-1-301. Findings and legislative intent.

(a) The purpose of this subchapter is to establish requirements governing the location of adult-oriented businesses in order to protect the public health, safety, and welfare and to prevent criminal activity.

(b) Based on evidence of the adverse secondary effects of adult-oriented businesses and on findings discussed in cases, including City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002), Erie v. PAP's A.M., 529 U.S. 277 (2000), City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), and Young v. American Mini Theatres, 427 U.S. 50 (1976), the General Assembly finds that:

(1) Adult-oriented businesses, as a category of commercial land uses, are associated with a wide variety of adverse secondary effects, including a negative impact on surrounding properties, personal and property crime, illicit drug use and trafficking, lewdness, prostitution, potential spread of disease, and sexual assault;

(2) Adult-oriented businesses should be separated from schools, playgrounds, places of worship, and other places frequented by children to minimize the impact of the secondary effects of the adult-oriented businesses on schools, playgrounds, places of worship, and other places frequented by children; and

(3)(A) There is a substantial government interest in preventing each of the negative secondary effects described in subdivision (b)(1) of this section.

(B) The substantial government interest exists independently of any comparative analysis between adult-oriented businesses and nonadult-oriented businesses.

History. Acts 2007, No. 387, § 1.

14-1-302. Definitions.

As used in this subchapter:

(1) "Adult arcade" means any place where the public is permitted or invited and where a still or motion picture machine, projector, or other image-producing device is:

(A) Coin-operated or slug-operated or electronically, electrically, or mechanically controlled; and

(B) Maintained to show an image or images involving a specific sexual activity or a specific anatomical area to a person in a booth or viewing room;

(2) "Adult bookstore or video store" means a commercial establishment that offers for sale or rent any of the following as one (1) of its principal business purposes:

(A) A book, magazine, periodical or other printed matter, photograph, film, motion picture, videocassette, reproduction, slide, or other visual representation that depicts or describes a specific sexual activity; or

(B) An instrument, a device, or paraphernalia that is designed for use in connection with a specific sexual activity;

(3) "Adult cabaret" means any nightclub, bar, restaurant, or other similar commercial establishment that regularly features a:

(A) Person who appears in a state of nudity or who is seminude;

(B) Live performance that is characterized by the exposure of a specific anatomical area or a specific sexual activity; or

(C) Film, motion picture, videocassette, slide, or other photographic reproduction that is characterized by the depiction or description of a specific sexual activity or a specific anatomical area;

(4) "Adult live entertainment establishment" means an establishment that features either a:

(A) Person who appears in a state of nudity; or

(B) Live performance that is characterized by the exposure of a specific anatomical area or a specific sexual activity;

(5) "Adult motion picture theater" means a commercial establishment in which for any form of consideration a film, motion picture, videocassette, slide, or other similar photographic reproduction characterized by the depiction or description of a specific sexual activity or a specific anatomical area is predominantly shown;

(6) "Adult-oriented business" means an adult arcade, an adult bookstore or video store, an adult cabaret, an adult live entertainment establishment, an adult motion picture theater, an adult theater, a massage establishment that offers adult services, an escort agency, or a nude model studio;

(7) "Adult theater" means a theater, a concert hall, an auditorium, or a similar commercial establishment that predominantly features a person who appears in a state of nudity or who engages in a live performance that is characterized by the exposure of a specific anatomical area or a specific sexual activity;

(8) "Child care facility" means a facility that is licensed by the Division of Child Care and Early Childhood Education of the Department of Human Services to provide care or supervision for minor children;

(9) "Escort" means a person who:

(A) For consideration agrees or offers to act as a date for another person; or

(B) Agrees or offers to privately model lingerie or to privately perform a striptease for another person;

(10) "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises the furnishing of an escort as one (1) of its primary business purposes for any fee, tip, or other consideration;

(11) "Local unit of government" means a city of the first class, a city of the second class, an incorporated town, or a county;

(12) "Massage establishment that offers adult services" means an establishment that offers massage services characterized by an emphasis on a specific sexual activity or a specific anatomical area;

(13) "Nude", "nudity", or "state of nudity" means any of the following:

(A) The appearance of a human anus, human genitals, or a female breast below a point immediately above the top of the areola; or

(B) A state of dress that fails to opaquely cover a human anus, human genitals, or a female breast below a point immediately above the top of the areola;

(14)(A) "Nude model studio" means a place where a person who appears in a state of nudity or who displays a specific anatomical area is observed, sketched, drawn, painted, sculptured, photographed, or otherwise depicted by another person for money or other consideration.

(B) "Nude model studio" does not include a proprietary school that is licensed by this state, a college, community college, or university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college, or university that is supported entirely or in part by taxation, or a structure containing an establishment to which the following apply:

(i) A sign is not visible from the exterior of the structure and no other advertising appears indicating that a nude person is available for viewing;

(ii) A person must enroll at least three (3) days in advance of a class in order to participate; and

(iii) No more than one (1) nude or seminude model is on the premises at a time;

(15) "Park" means any area primarily intended for recreational use that is dedicated or designated by any federal, state, or local unit of government, local agency or entity, or any private individual, business, or group including any land leased, reserved, or held open to the public for use as a park;

(16) "Place of worship" means a structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural features;

(17) "Playground" means any:

(A) Public park or outdoor recreational area with play equipment installed and designed to be used by children; and

(B) Outdoor recreational area with play equipment installed that is owned and operated by a charitable organization or a business;

(18) "Public library" means:

(A) A city library established under § 13-2-501 et seq.;

(B) A county library established under § 13-2-401 et seq.;

(C) A joint city-county library established under § 13-2-401 et seq. or § 13-2-501 et seq.; and

(D) Any other library system established under § 13-2-401 et seq., § 13-2-501 et seq., or the Regional Library System Law, § 13-2-901 et seq.;

(19) "Recreational area or facility" means an area or facility open to the public for recreational purposes;

(20) "Residence" means a permanent dwelling place;

(21) "School" means a public or private elementary, secondary, charter, or postsecondary school;

(22) "Seminude" means a state of dress for which clothing covers no more than the genitals, the pubic region, and a female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices;

(23) "Specific anatomical area" means any of the following:

(A) A human anus, genitals, pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered; or

(B) Male genitals in a discernibly turgid state if less than completely and opaquely covered;

(24) "Specific sexual activity" means any of the following:

(A) A sex act, actual or simulated, including an act of human masturbation, sexual intercourse, oral copulation, or sodomy; or

(B) Fondling or other erotic touching of a human genital, a pubic region, a buttock, an anus, or a female breast; and

(25) "Walking trail" means a pedestrian trail or path primarily used for walking but also for cycling or other activities.

History. Acts 2007, No. 387, § 1.

14-1-303. Location of adult-oriented businesses.

(a) An adult-oriented business shall not be located within one thousand feet (1,000') of a child care facility, park, place of worship, playground, public library, recreational area or facility, residence, school, or walking trail.

(b) For the purposes of this section, the measurement required in subsection (a) of this section shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an adult-oriented business to the nearest point on the property line of a parcel containing a child care facility, park, place of worship, playground, public library, recreational area or facility, residence, school, or walking trail.

(c) An adult-oriented business lawfully operating in conformity with this section is not in violation of this section if a child care facility, park, place of worship, playground, public library, recreational area or facility, residence, school, or walking trail subsequently locates within one thousand feet (1,000') of the adult-oriented business.

History. Acts 2007, No. 387, § 1.

14-1-304. County and municipal ordinances.

This subchapter does not prohibit a local unit of government from enacting and enforcing ordinances that regulate the location of adult-oriented businesses in a manner that is at least as restrictive as § 14-1-303.

History. Acts 2007, No. 387, § 1.

14-1-305. Civil action.

(a) If there is reason to believe that a violation of this subchapter is being committed in any local unit of government:

(1) The county attorney of the county where the adult-oriented business is located shall maintain an action to abate and prevent the violation and to enjoin perpetually any person who is committing the violation and the owner, lessee, or agent of the building or place in or where the violation is occurring from directly or indirectly committing or permitting the violation; or

(2) A citizen of this state who resides in the county, city, or town where the adult-oriented business is located may in the citizen's own name maintain an action to abate and prevent the violation and to enjoin perpetually any person who is committing the violation and the owner, lessee, or agent of the building or place in or where the violation is occurring from directly or indirectly committing or permitting the violation.

History. Acts 2007, No. 387, § 1.

14-1-306. Criminal penalties.

(a)(1) A violation of § 14-1-303 is a Class A misdemeanor.

(2) Each day of violation constitutes a separate offense.

(b) A person violating § 14-1-303 is subject to a fine under § 5-4-201 et seq. and a sentence of imprisonment under § 5-4-401 et seq.

History. Acts 2007, No. 387, § 1.

14-1-307. Exceptions.

This subchapter shall not apply to an adult-oriented business that is lawfully operating on or before July 31, 2007.

History. Acts 2007, No. 387, § 1.

14-1-308. Posting information about the National Human Trafficking Resource Center Hotline.

An entity governed by this subchapter shall post information about the National Human Trafficking Resource Center Hotline as required under § 12-19-102.

History. Acts 2013, No. 1157, § 6.

CHAPTER 2
PUBLIC RECORDS GENERALLY

SUBCHAPTER.
1. General Provisions.
2. Reproduction of Records.
3. Uniform Real Property Electronic Recording.

Subchapter 1 — General Provisions

SECTION.
14-2-102. Records of military discharges.
14-2-103. Book defined.

Effective Dates. Acts 2003, No. 275, § 3: Feb. 28, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that for many years, veterans were advised to file their military service discharge records or DD Form 214 with the court recorder; that these forms contain sensitive information that can be used by identity thieves to obtain credit in the veteran's name or otherwise defraud the veteran or his or her family; in recent years, the incident of identity theft has increased; that incidents of identity thieves using the military service discharge records or DD Form 214 to obtain credit in the veteran's name or otherwise defraud the veteran or his or her family has occurred; that the effects on the veteran and the veteran's family are devastating; and that this act is immediately necessary to protect veterans and their families from identity theft by making military service discharge records or DD Form 214 filed with the county recorder confidential and not subject to the Arkansas Freedom of Information Act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-2-102. Records of military discharges.

(a) It shall be the duty of the quorum court in each county of the State of Arkansas to appropriate from any moneys in the general fund any sum as may be necessary, not exceeding in any county the sum of one hundred dollars ($100), for providing a suitable record book for the purpose of recording military certificates of discharge.

(b) The record shall contain a complete copy of discharges and shall contain an index of the names of the discharged soldiers, sailors, airmen, marines, members of the United States Coast Guard, merchant marines, members of the Women's Army Auxiliary Corps, Women's Auxiliary Volunteer for Emergency Service, nurses, and members of all

other branches of the armed forces with reference to page, alphabetically arranged.

(c)(1) A military service discharge record or DD Form 214, the Certificate of Release or Discharge from Active Duty of the United States Department of Defense, filed with the county recorder for a veteran discharged from service less than seventy (70) years from the current date shall be confidential, kept in a secure location, and may be viewed or reproduced only by:

(A) The veteran;

(B) The veteran's spouse or child;

(C) A person with a signed and notarized authorization from the veteran;

(D) A funeral director who:

(i) Is licensed and regulated by the State Board of Embalmers and Funeral Directors under § 17-29-201 et seq.;

(ii) Is assisting with the veteran's funeral arrangements; and

(iii) Presents a signed and notarized authorization from the veteran's spouse, child, or next of kin;

(E) A county or state veterans' service officer who is assisting the veteran or the veteran's family with a veteran's benefit application; or

(F) A person authorized by a court to view or copy the military service discharge record or DD Form 214 upon presentation of a court order.

(2) The county recorder shall record the names and addresses of all persons viewing or copying a military service discharge record or DD Form 214 under this subsection.

(3) No fee shall be charged for reproduction costs under this subsection.

(4) Upon petition by a veteran or other requestor eligible to view the records who has a notarized authorization from the veteran, the court may order the removal of the records from the county recorder's record book.

(d)(1) A military service discharge record for a veteran discharged from service more than seventy (70) years from the current date and filed with the county recorder shall be a public record.

(2) No fee shall be charged for reproduction cost under this subsection.

(e)(1) The county recorder may maintain a record book that contains any of the following information about veterans for public record:

(A) Name;

(B) Rank;

(C) Unit of military service;

(D) Dates of military service;

(E) Medals conferred upon veterans; and

(F) Awards conferred upon veterans.

(2) If the county recorder does not maintain a record book, then upon specific request for the information, the county recorder shall review a military service discharge record or DD Form 214 and provide only the

information in subdivision (e)(1) of this section to the requestor, without allowing the requestor to review the military service discharge record or DD Form 214.

History. Acts 1943, No. 147, § 3; A.S.A. 1947, § 11-1707; Acts 2003, No. 275, § 1; 2005, No. 2208, § 1; 2005, No. 2249, § 1.
Cross References. Military discharge records exempted from the Arkansas Freedom of Information Act, § 25-19-105(b)(15).

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Local Government, Protection for Veterans, 26 U. Ark. Little Rock. L. Rev. 433.

14-2-103. Book defined.

In all county offices, unless the context or definition requires otherwise, "book" means either paper, electronic files, or information maintained in a computer, computer system or network, or other electronic information storage and retrieval system.

History. Acts 1999, No. 1239, § 1.

Subchapter 2 — Reproduction of Records

SECTION.
14-2-201. Authority — Requirements.
14-2-202. Copy of record — Admissibility.
14-2-203. Disposal, etc., of copied records.
14-2-204. Municipal police department records.

14-2-201. Authority — Requirements.

(a) The head of any county or municipal department, commission, bureau, or board may cause any or all records kept by the official, department, commission, or board to be photographed, microfilmed, photostated, or reproduced on or by film, microcard, miniature photographic recording, optical disc, digital compact disc, electronic imaging, or other process that accurately reproduces or forms a durable medium for reproducing the original when provided with equipment necessary for such method of recording.

(b) At the time of reproduction, the agency head shall attach his or her certificate to the record certifying that it is the original record, and the certificate shall be reproduced with the original.

(c) The device used to reproduce the records shall be such as to accurately reproduce and perpetuate the original records in all details.

History. Acts 1947, No. 218, § 1; A.S.A. 1947, § 16-501; Acts 2001, No. 1630, § 1.

14-2-202. Copy of record — Admissibility.

(a) The reproduction made in accordance with § 14-2-201, when satisfactorily identified, shall be admissible into evidence as provided in § 16-46-101 or any other provision of law or court rules governing the admission of evidence.

(b) For all purposes recited in this section, a facsimile, exemplification, or certified copy thereof shall be deemed to be a transcript, exemplification, or certified copy of the original.

History. Acts 1947, No. 218, § 2; A.S.A. 1947, § 16-502; Acts 2001, No. 1630, § 2.

14-2-203. Disposal, etc., of copied records.

(a) Whenever reproductions of public records have been made in accordance with § 14-2-201 and have been placed in conveniently accessible files or other suitable format and provision has been made for preserving, examining, and using them, the head of a county office or department or city office or department may certify those facts to the county court or to the mayor of a municipality, respectively, who shall have the power to authorize the disposal, archival storage, or destruction of the records.

(b) Cities of the first class, cities of the second class, and incorporated towns may by ordinance declare a policy of record retention and disposal, provided that:

(1) The city or town complies with any specific statute regarding municipal records; and

(2) The following records are maintained permanently in either the original or electronic format as required by law:

(A) Ordinances;

(B) City council minutes;

(C) Resolutions;

(D) Annual financial audits; and

(E) Year-end financial statements.

History. Acts 1947, No. 218, § 4; A.S.A. 1947, § 16-504; Acts 2001, No. 1630, § 3; 2005, No. 1252, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

14-2-204. Municipal police department records.

(a) All municipalities of the State of Arkansas shall maintain records for the city or town police department or marshal's office, if the records are currently being maintained, as follows:

(1) Maintain for seven (7) years after closure of the case file or permanently, as the municipality shall determine, provided that §§ 12-12-104 and 14-2-203(b)(1) are complied with and that records related to crimes of violence as defined by § 5-42-203 are maintained permanently:

(A) Closed municipal police case files for felony and Class A misdemeanor offenses; and

(B) Expungement orders of municipal police cases; and

(2) Maintain for three (3) years:

(A) Accident reports;

(B) Incident reports;

(C) Offense reports;

(D) Fine and bond records;

(E) Parking meter records;

(F) Radio logs and complaint cards; and

(G) Employment records, payroll sheets, time cards, and leave requests.

(b)(1) If maintained for more than ten (10) years after the date the record was created, records under subdivision (a)(1) of this section may be copied and maintained in accordance with § 14-2-203.

(2) Records under subdivision (a)(2) of this section may be copied in accordance with § 14-2-203 or are subject to disposal after the specified time period has passed.

History. Acts 2003, No. 1187, § 1; 2005, No. 1252, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

Subchapter 3 — Uniform Real Property Electronic Recording

14-2-301. Short title.

This subchapter may be cited as the "Uniform Real Property Electronic Recording Act".

History. Acts 2007, No. 734, § 1.

14-2-302. Definitions.

In this subchapter:

(1) "Document" means information that is:

(A) inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and

(B) eligible to be recorded in the land records maintained by the county recorder.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is received by the county recorder in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(6) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

History. Acts 2007, No. 734, § 1.

14-2-303. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this subchapter.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.

History. Acts 2007, No. 734, § 1.

14-2-304. Recording of documents.

(a) In this section, "paper document" means a document that is received by the county recorder in a form that is not electronic.

(b) A county recorder:

(1) who implements any of the functions listed in this section shall do so in compliance with standards established by the Electronic Recording Commission.

(2) may receive, index, store, archive, and transmit electronic documents.

(3) may provide for access to, and for search and retrieval of, documents and information by electronic means.

(4) who accepts electronic documents for recording shall continue to accept paper documents as authorized by state law and shall place entries for both types of documents in the same index.

(5) may convert paper documents accepted for recording into electronic form.

(6) may convert into electronic form information recorded before the county recorder began to record electronic documents.

(7) may accept electronically any fee, tax, or revenue stamp that the county recorder is authorized to collect.

(8) may agree with other officials of a state or a political subdivision thereof, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees, taxes, or revenue stamps.

History. Acts 2007, No. 734, § 1.

14-2-305. Administration and standards.

(a)(1) An Electronic Recording Commission consisting of eleven (11) members appointed by the Governor is created to adopt standards to implement this subchapter.

(2) A majority of the members of the commission must be county recorders.

(3) A member of the commission must be an active state legislator.

(4) A member of the commission shall serve a term of two (2) years.

(5) The terms of the current commission members on July 31, 2009 shall expire on September 1, 2009.

(6) Each member of the commission may receive expense reimbursement in accordance with § 25-16-901 et seq.

(b) To keep the standards and practices of county recorders in this state in harmony with the standards and practices of recording offices in other jurisdictions that enact substantially this subchapter and to keep the technology used by county recorders in this state compatible with technology used by recording offices in other jurisdictions that enact substantially this subchapter, the Electronic Recording Commission, so far as is consistent with the purposes, policies, and provisions of this subchapter, in adopting, amending, and repealing standards shall consider:

(1) standards and practices of other jurisdictions;

(2) the most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association;

(3) the views of interested persons and governmental officials and entities;

(4) the needs of counties of varying size, population, and resources; and

(5) standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

(c) A staff member of the Bureau of Legislative Research will be assigned to assist the Electronic Recording Commission. The staff member will coordinate meetings, accumulate information, and provide general support to the commission.

History. Acts 2007, No. 734, § 1; 2009, No. 725, § 1; 2011, No. 1157, §§ 1, 2.

Amendments. The 2009 amendment inserted (a)(2) through (a)(5) and redesignated the remaining text of (a) accordingly.

The 2011 amendment substituted "eleven (11) members" for "nine (9) members" in (a)(1); inserted present (a)(3) and redesignated the remaining subdivisions accordingly; and added (c).

14-2-306. Uniformity of application and construction.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

History. Acts 2007, No. 734, § 1.

14-2-307. Relation to Electronic Signatures in Global and National Commerce Act.

This subchapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C.S. § 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.S. § 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C.S. § 7003(b).

History. Acts 2007, No. 734, § 1.

14-2-308. [Reserved.]

Publisher's Notes. Section 8 of the Uniform Real Property Electronic Recording Act, the effective date clause, was not adopted in Arkansas.

SUBTITLE 2. COUNTY GOVERNMENT

CHAPTER 14

COUNTY GOVERNMENT CODE

SUBCHAPTER.

SUBCHAPTER 1 — GENERAL PROVISIONS

Effective Dates. Acts 2009, No. 569, § 2: Mar. 24, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that some counties and county officials that have public records stored in an electronic record may not have complete access and control of the records and that this act is necessary because the lack of control has led or will lead to lawsuits of which the basis is the county officeholder's inability to access the county's own records. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-14-111. Electronic records.

(a)(1) County governments in Arkansas are the repository for vast numbers of public records necessary for the regulation of commerce and vital to the health, safety, and welfare of the citizens of the state.

(2) These records are routinely kept in electronic format by the county officials who are the custodians of the records.

(3) It is the intent of this section to:

(A) Ensure that all public records kept by county officials are under the complete care, custody, and control of the county officials responsible for the records; and

(B) Prevent a computer or software provider doing business with a county from obtaining complete care and control of county records and from becoming the de facto custodian of the records.

(b) As used in this section:

(1) "Administrative rights" means permissions and powers, including without limitation the permissions and powers to access, alter, copy, download, read, record, upload, write, or otherwise manipulate and maintain records kept by a county official;

(2) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means; and

(3)(A) "Public records" means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions that are or should be carried out by a public official or employee, a governmental agency, or other agency wholly or partially supported by public funds or expending public funds. All records maintained in county offices or by county employees within the scope of employment are public records.

(B) "Public records" does not mean software acquired by purchase, lease, or license.

(c)(1) A county official required by law to maintain public records and who in the normal performance of official duties chooses to keep and maintain the records in an electronic record retains administrative rights and complete access to all the records.

(2) A contract between a county and an electronic record provider shall include the information under subdivision (c)(1) of this section.

History. Acts 2009, No. 569, § 1.

14-14-112. Bulk copying of public records.

(a) In the absence of an existing agreement or county ordinance, a county official may negotiate with a commercial, nonpress entity regarding a reasonable fee for mass duplication, copying, or bulk electronic access of public records.

(b) A negotiated agreement authorized by this section is not to the exclusion of any right to a public record a person has under this subchapter or § 25-19-109.

(c) As used in this section, "existing agreement" means a contract, custom, practice, or dealings that were in use as of January 1, 2011.

History. Acts 2011, No. 870, § 1.

14-14-113. Review of audit report by quorum court.

(a) Audit reports and accompanying comments and recommendations under § 10-4-418 relating to a county shall be reviewed by the quorum court.

(b)(1) The audit report and accompanying comments and recommendations shall be reviewed at the first regularly scheduled meeting following receipt of the audit report if the audit report is received by the quorum court at least ten (10) days before the regularly scheduled meeting.

(2) If the audit report is received by the quorum court less than ten (10) days before a regularly scheduled meeting, the audit report shall be reviewed at the regularly scheduled meeting falling within the ten-day

period or the next regularly scheduled meeting subsequent to the ten-day period.

(c) The appropriate official shall advise the quorum court concerning each finding and recommendation contained in the audit report.

(d) The minutes of the quorum court shall document the review of the findings and recommendations of the appropriate official.

History. Acts 2011, No. 837, § 2.

14-14-114. Allocation of revenue.

A county that contains within its boundary a circuit court composed of both an east and a west judicial district that were created in 1883 shall enact an ordinance to establish that revenues received by the county shall be allocated for the entire county and shall not be divided by the judicial district in which the revenues were collected.

History. Acts 2011, No. 1171, § 3.

A.C.R.C. Notes. Acts 2011, No. 1171, § 5, provided: "The provisions of this act are not severable, and if any provision of this act is declared invalid for any reason, then all provisions of this act shall also be invalid."

Subchapter 2 — Boundaries

SECTION.

A.C.R.C. Notes. Acts 2013, No. 1067, § 1, provided: "Legislative findings.

"The General Assembly of the State of Arkansas finds that:

"(1) Areas of Boone County and Carroll County are cut off from public and emergency services by the waters of Table Rock Lake;

"(2) The areas are commonly known as the Backbone Bluff and the Cricket Creek Public Use Area;

"(3) Problems associated with the provision of services in these areas have existed for several years, but the number of calls for service were minimal due to the sparse population of the areas; and

"(4) Changing the boundaries of Boone County and Carroll County will address these problems."

Acts 2013, No. 1067, § 2, provided: "The boundaries of Carroll County and Boone County are changed as follows:

"(a) Effective January 1, 2014, the western boundary of Boone County, Arkansas, is identified as follows: Beginning at the intersection center of channel of Table Rock Lake in the North East Quarter of Section 15, Township 21 North Range 22 West with the Eastern boundary of said Section; thence meandering West following the center of channel of Table Rock Lake through Section 15 Township 21 North Range 22 West past the Cricket Creek Public Use Area, thence meandering northeasterly following the center of channel of Table Rock Lake through Section 10 Township 21 North Range 22 West, thence meandering northerly following the center of channel of Table Rock Lake through Section 11 Township 21 North Range 22 West, thence meandering northwesterly following the center of channel of Table Rock Lake through Section 10 Township 21 North Range 22 West to a point due south of the center of channel of the strait between Backbone Bluff and the island lying to the west, thence north through the strait to a point in the center of channel of Table Rock Lake, thence meandering easterly follow-

ing the center of channel of Table Rock Lake through Section 11 Township 21 North Range 22 West to the point of intersection with the Arkansas state and Missouri state boundary.

"(b) Effective January 1, 2014, the eastern boundary of Carroll County, Arkansas, is identified as follows: Beginning at the intersection center of channel of Table Rock Lake in the North East Quarter of Section 15, Township 21 North Range 22 West with the Eastern boundary of said Section; thence meandering West following the center of channel of Table Rock Lake through Section 15 Township 21 North Range 22 West past the Cricket Creek Public Use Area, thence meandering northeasterly following the center of channel of Table Rock Lake through Section 10 Township 21 North Range 22 West, thence meandering northerly following the center of channel of Table Rock Lake through Section 11 Township 21 North Range 22 West, thence meandering northwesterly following the center of channel of Table Rock Lake through Section 10 Township 21 North Range 22 West to a point due south of the center of channel of the strait between Backbone Bluff and the island lying to the west, thence north through the strait to a point in the center of channel of the Table Rock Lake, thence meandering easterly following the center of channel of Table Rock Lake through Section 11 Township 21 North Range 22 West to the point of intersection with the Arkansas state and Missouri state boundary."

14-14-204. Accompanying documentation.

Petitions for the alteration of county boundaries shall be accompanied by the following documentation:

(1)(A) A survey of the proposed boundary alterations, except where common boundaries are being dissolved.

(B) The survey shall be performed by a professional surveyor as defined in § 17-48-101; and

(2) A map drawn to scale of the area affected by the petition.

History. Acts 1977, No. 742, § 20; A.S.A. 1947, § 17-3206; Acts 2005, No. 1178, § 1; 2011, No. 898, § 7.

Amendments. The 2011 amendment substituted "a professional surveyor as defined in § 17-48-101" for "a registered professional surveyor of the State of Arkansas" in (1)(B).

Subchapter 5 — Organization Generally

SECTION.

Effective Dates. Acts 2001, No. 997, § 2: July 1, 2001.

Acts 2001, No. 997, § 3: Mar. 21, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that portions of Amendment 80 to the Constitution of the State of Arkansas which merge courts of law and equity become effective July 1, 2001, and it is unclear what effect that will have on the county clerks' role as probate clerk; that this act should be effective July 1, 2001 to coincide with the related provisions of Amendment 80. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the

period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-14-502. Distribution of powers.

(a) DIVISION. The powers of the county governments of the State of Arkansas shall be divided into three (3) distinct departments, each of them to be confined to a separate body, to wit: Those that are legislative to one, those that are executive to a second, and those that are judicial to a third.

(b)(1) LEGISLATIVE. All legislative powers of the county governments are vested in the quorum court. The people reserve to themselves the power to propose county legislative measures and to enact or reject them at the polls independent of the quorum court. The people also reserve to themselves the power, at their option, to approve or reject at the polls any entire ordinance enacted by a quorum court.

(2) EXECUTIVE. (A) The executive divisions of a county government shall consist of:

(i) The county judge, who shall perform the duties of the chief executive officer of the county as provided in Arkansas Constitution, Amendment 55, Section 3, and as implemented in this chapter and who shall preside over the quorum court without a vote but with the power of veto;

(ii) One (1) sheriff, who shall be ex officio collector of taxes, unless otherwise provided by law;

(iii) One (1) assessor;

(iv) One (1) coroner;

(v) One (1) treasurer, who shall be ex officio treasurer of the common school fund of the county;

(vi) One (1) surveyor; and

(vii) One (1) clerk of the circuit court, who shall be ex officio clerk of the county and probate courts and recorder.

(B) There may be elected a county clerk in like manner as a circuit clerk, and in such cases, the county clerk may be ex officio clerk of the probate division of circuit court, if such division exists, of the county until otherwise provided by the General Assembly.

(3) JUDICIAL. The judicial divisions of a county government are vested in the county court, except with respect to those powers formerly vested in the county court which, by the provisions of Arkansas Constitution, Amendment 55, are to be performed by the county judge, and in the respective courts of this state as provided by law.

(c) LIMITATIONS. No person or collection of persons being one of these departments, legislative, executive, or judicial, shall exercise any power belonging to either of the others, except in the instances expressly directed or permitted.

History. Acts 1977, No. 742, § 40; 1979, No. 413, § 5; A.S.A. 1947, § 17-3502; Acts 2001, No. 997, § 1.

Publisher's Notes. Acts 2001, No. 997, § 2, provided: "This act shall be effective July 1, 2001."

Acts 2001, No. 997, § 3, an emergency clause, provided that the act shall be effective on the date of its approval by the Governor, March 21, 2001.

CASE NOTES

In General.

Because terminated county employee's actions of reporting alleged misdeeds to quorum court members, sitting as a grievance committee, was reporting to the "appropriate authorities," under § 21-1-602(2)(A)(ii), evidence supporting terminated employee's claim under the Whistle-Blower Act created a question of fact and it was thus an error for the trial court to have granted the county's motion for a directed verdict. Crawford County v. Jones, 365 Ark. 585, 232 S.W.3d 433 (2006).

Subchapter 7 — Service Organizations

SECTION.

14-14-711. Administration of subordinate service districts.

(a) Generally. A subordinate service district may be administered directly as a part of the office of the county judge, as a part of a department with or without an advisory or administrative board, or as a separate department with or without an advisory or administrative board.

(b) Budget. The budget for each subordinate service district shall be appropriated as other funds of the county.

(c) Tax Lists. Upon request, the county assessor shall provide the quorum court with the assessed or taxable value of all property in a proposed established subordinate service district and a list of property owners and residential structures based on the last completed assessment roll of the county.

(d) Service Charges.

(1)(A) Service charges for subordinate service districts shall be entered on tax statements by the county sheriff or county collector pursuant to § 26-35-705 and shall be collected with the real and personal property taxes of the county.

(B) No collector of taxes shall accept payment of any property taxes if the taxpayer has been billed for services authorized by a subordinate service district unless the service charge is also receipted.

(C) If a property owner fails to pay the service charge, the service charge shall become a lien on the property.

(2) A subordinate service district may choose to forgo county collection of its annual service charges and instead collect its service charges on a suitable periodic basis if the subordinate service district provides its own billing and collection service.

(e) Use of Funds. Funds raised through service charges for a subordinate service district may be used only for subordinate service district purposes. These public funds shall be maintained in the county treasury and accounted for as an enterprise fund. Disbursements of all subordinate service district funds shall be made only upon voucher or claim presented to and approved by the county judge, acting in his or her capacity as the chief executive officer of the county, unless otherwise provided by ordinance establishing the district.

History. Acts 1981, No. 874, § 1; 1983, No. 233, § 2; A.S.A. 1947, § 17-4109; Acts 1995, No. 552, § 1; 2013, No. 537, § 1.

Amendments. The 2013 amendment rewrote (d)(1).

Subchapter 8 — Legislative Powers

14-14-805. Powers denied.

Each county quorum court in the State of Arkansas exercising local legislative authority is prohibited the exercise of the following:

(1) Any legislative act that applies to or affects any private or civil relationship, except as an incident to the exercise of local legislative authority;

(2) Any legislative act that applies to or affects the provision of collective bargaining, retirement, workers' compensation, or unemployment compensation. However, subject to the limitations imposed by the Arkansas Constitution and state law regarding these subject areas, a quorum court may exercise any legislative authority with regard to employee policy and practices of a general nature, including, but not limited to, establishment of general vacation and sick leave policies, general office hour policies, general policies with reference to nepotism, or general policies to be applicable in the hiring of county employees. Legislation promulgated by a quorum court dealing with matters of employee policy and practices shall be applicable only to employees of the county and shall not apply to the elected county officers of the county. Legislation applying to employee policy practices shall be only of a general nature and shall be uniform in application to all employees of the county. The day-to-day administrative responsibility of each county office shall continue to rest within the discretion of the elected county officials;

(3) Any legislative act that applies to or affects the public school system, except that a county government may impose an assessment, where established by the General Assembly, reasonably related to the cost of any service or specific benefit provided by county government and shall exercise any legislative authority which it is required by law to exercise regarding the public school system;

(4) Any legislative act which prohibits the grant or denial of a certificate of public convenience and necessity;

(5) Any legislative act that establishes a rate or price otherwise determined by a state agency;

(6) Any legislative act that defines as an offense conduct made criminal by state law, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of one thousand dollars ($1,000) for any one (1) specified offense or violation, or double that sum for repetition of the offense or violation. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance of the prohibited or unlawful act, in violation of the ordinance, shall not exceed five hundred dollars ($500) for each day that it is unlawfully continued;

(7) Any legislative act that applies to or affects the standards of professional or occupational competence as prerequisites to the carrying on of a profession or occupation;

(8) Any legislative act of attainder, ex post facto law, or law impairing the obligations of contract shall not be enacted, and no conviction shall work corruption of blood or forfeiture of estate;

(9) Any legislative act which grants to any citizen or class of citizens privileges or immunities which upon the terms shall not equally belong to all citizens;

(10) Any legislative act which denies the individual right of property without just compensation;

(11) Any legislative act which lends the credit of the county for any purpose whatsoever or upon any interest-bearing evidence of indebtedness, except bonds as may be provided for by the Arkansas Constitution. This subdivision does not apply to revenue bonds which are deemed not to be a general obligation of the county;

(12) Any legislative act that conflicts with the exercise by municipalities of any expressed, implied, or essential powers of municipal government;

(13) Any legislative act contrary to the general laws of the state.

History. Acts 1977, No. 742, § 73; 1979, No. 413, § 15; A.S.A. 1947, § 17-3805; Acts 2013, No. 127, § 1.

Amendments. The 2013 amendment, in (6), substituted "fine of one thousand dollars ($1,000)" for "fine of five hundred dollars ($500)" in the first sentence, and substituted "of the prohibited or unlawful act" for "thereof," "five hundred dollars ($500)" for "two hundred fifty dollars ($250)," and "is unlawfully" for "may be unlawfully" in the last sentence.

RESEARCH REFERENCES

ALR. Construction and Application of U.S. Const. Art. I, § 10, cl. 1, and State Constitutional Provisions Proscribing State Bills of Attainder. 63 A.L.R.6th 1.

CASE NOTES

County Employees.

Defendants did not violate this section as the county quorum court did not pass any ordinance that prohibited the practice of collective bargaining, nor did it prescribe the manner in which collective bargaining should be utilized; the quorum court merely expressed its intent not to renew the collective bargaining agreement with the union and the county employees. AFSCME, Local 380 v. Hot Spring County, 362 F. Supp. 2d 1035 (W.D. Ark. 2004).

14-14-811. Salary of county judge and emergency management personnel.

(a) The quorum court of each county is authorized to pay a portion of the salary and related matching benefits of the county judge from the county road fund and the county solid waste fund.

(b)(1) The portion of the county judge's salary paid from the county road fund shall not exceed fifty percent (50%); and

(2) The portion paid from the county solid waste fund shall not exceed thirty-four percent (34%).

(c) However, the portion to be paid from the county general fund shall be at least one-third (⅓) of the total salary and matching benefits.

(d)(1) At the discretion of the county judge, a county may pay a portion of the salary and related matching benefits of personnel of the local emergency management jurisdiction from the county road fund.

(2) The portion paid from the county road fund shall not exceed fifty percent (50%).

History. Acts 1987, No. 675, § 2; 1999, No. 725, § 1; 2011, No. 345, § 1.

Amendments. The 2011 amendment rewrote the section heading and added (d).

14-14-813. Authority to regulate unsanitary conditions.

(a) To the extent that it is not inconsistent with the powers exercised by incorporated towns and cities of the first class and cities of the second class under § 14-54-901 et seq., counties are empowered to order the owner of real property within the county to:

(1) Abate, remove, or eliminate garbage, rubbish, and junk as defined in § 27-74-402, and other unsightly and unsanitary articles upon property situated in the county; and

(2) Abate, eliminate, or remove stagnant pools of water or any other unsanitary thing, place, or condition that might become a breeding place for mosquitoes and germs harmful to the health of the community.

(b) A copy of the order issued under subsection (a) of this section shall be:

(1) Posted upon the property; and

(2)(A) Mailed to the last known address of the property owner by the county clerk or other person designated by the quorum court; or

(B) Published in accordance with § 14-14-104 if there is no last known address for the property owner.

(c)(1) If the property owner has not complied with the order within thirty (30) days after notice is given in accordance with subsection (b) of this section, the county may:

(A)(i) Take any necessary corrective actions, including repairs, to bring the property into compliance with the order; or

(ii) Remove or raze any structure ordered by the county to be removed or razed; and

(B) Charge the cost of any actions under subdivision (c)(1)(A) of this section to the owner of the real property.

(2) The county shall have a lien against the property for any unpaid cost incurred under subdivision (c)(1) of this section in addition to interest at the maximum legal rate.

(d) In all successful suits brought to enforce liens granted under this section, the county shall be reimbursed its costs, including title search fees and a reasonable attorney's fee.

(e) This section does not apply to:

(1) Land valued as agricultural property that is being farmed or otherwise used for agricultural purposes; or

(2) A parcel of land larger than ten (10) acres if the unsanitary condition on the parcel is not visible from a public road or highway.

History. Acts 2005, No. 1984, § 1; 2007, No. 126, § 1; 2007, No. 250, § 1.

14-14-814. Authority to regulate private communities.

(a) Upon the written request of a property owners' association of a private community that is located outside the boundaries of a municipality, a county may by ordinance regulate the health, safety, and welfare of the citizens of the private community within all or any part of the area included in the private community.

(b) The quorum court may by ordinance regulate animals upon petition by a majority of landowners or a property owners' association within the private community, including without limitation leash or harness requirements for domestic animals when the animals are outside the animal owner's property.

(c) As used in this section, "private community" means a community outside the corporate limits of a municipality but within a platted subdivision or a condominium complex.

(d) The quorum court may enforce this section under § 14-14-906.

History. Acts 2007, No. 144, § 1; 2013, No. 567, § 1.

Amendments. The 2013 amendment rewrote (a); and added (b) through (d).

Subchapter 9 — Legislative Procedures

Effective Dates. Acts 2001, No. 901, § 2: Mar. 19, 2001. Emergency clause provided: "It is found and determined by the General Assembly that mistakes may occur in the levying of millage rates and court ordered millage rollback corrections are necessary in order to ensure that citizens are being taxed at the correct rate. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 981, § 3: Mar. 20, 2001. Emergency clause provided: "It is found and determined by the General Assembly that a referendum period of longer than 30 days on measures pertaining to short-term financing obligations of counties requires an unreasonable waiting period between the adoption of a measure authorizing the obligation and the actual funding and that counties should be able to enter into such obligations upon the most favorable terms and that immediate passage of this act is necessary to enable counties to incur such short-term financing obligations in a timely manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 105, § 12: Feb. 10, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court's stay of its mandate. It has also found that the people must be informed as early as possible of the impact of the court's ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 543, § 2: Mar. 3, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current law is unclear and confusing; that due to the confusing nature of the current law there have been delays in passing emergency legislation in the quorum courts of the State of Arkansas; and that this act is immediately necessary to clarify the current voting procedure and provide for more efficient county government. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1480, § 117: July 31, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-14-904. Procedures generally.

(a) Time and Place of Quorum Court Assembly.

(1)(A)(i) The justices of the peace elected in each county shall assemble and organize as a county quorum court body on the first regular meeting date after the beginning of the justices' term in office.

(ii) Alternatively, the county judge may schedule the biennial meeting date of the quorum court on a date in January other than the first regular meeting date of the quorum court after the beginning of the justices' term.

(B) Thereafter, the justices shall assemble each calendar month at a regular time and place as established by ordinance and in their respective counties to perform the duties of a quorum court, except that more frequent meetings may be required by ordinance.

(2) By declaration of emergency or determination that an emergency exists and the safety of the general public is at risk, the county judge may change the date, place, or time of the regular meeting of the quorum court upon twenty-four-hour notice.

(b) Levy of Taxes and Making of Appropriations.

(1)(A)(i) The quorum court at its regular meeting in November of each year shall levy the county taxes, municipal taxes, and school taxes for the current year.

(ii) Before the end of each fiscal year, the quorum court shall make appropriations for the expenses of county government for the following year.

(B) The Director of the Assessment Coordination Department may authorize an extension of up to sixty (60) days of the date for levy of taxes upon application by the county judge and county clerk of any county for good cause shown resulting from reappraisal or rollback of taxes.

(2) Nothing in this subsection shall prohibit the quorum court from making appropriation amendments at any time during the current fiscal year.

(3) If the levy of taxes is repealed by referendum, the county may adopt a new ordinance levying taxes within thirty (30) days after the referendum vote is certified.

(4) If a county court determines that the levy of taxes by the quorum court is incorrect due to clerical errors, scrivener's errors, or failure of a taxing entity to report the correct millage rate to the quorum court, the county court shall issue an order directing the county clerk to correct the error in order to correct the millage levy.

(5) If a determination is made under this subchapter or § 26-80-101 et seq. that the taxes levied by the quorum court are out of compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Amendment 40, and Amendment 74, then upon notice from the Director of the Department of Education, the county court shall immediately issue an order directing the county clerk to change the millage levy to bring the taxes levied into compliance with Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendment 11, Amendment 40, and Amendment 74.

(c) Special Meetings of Quorum Court.

(1) The county judge or a majority of the elected justices may call a special meeting of the quorum court upon at least twenty-four (24) hours' notice in such manner as may be prescribed by local ordinance.

(2) In the absence of procedural rules, the county judge or a majority of the elected justices may call a special meeting of the quorum court upon written notification of all members not less than two (2) calendar days prior to the calendar day fixed for the time of the meeting. The notice of special meeting shall specify the subjects, date, time, and designated location of the special meeting.

(3)(A) Notice of assembly of a county grievance committee or assembly of less than a quorum of the body, referred to under this section as a "regular committee" or "special committee", may be provided upon oral notice to the members of at least forty-eight (48) hours unless an emergency exists.

(B) If an emergency exists, written notice of at least twenty-four (24) hours stating the basis of the emergency shall be provided.

(d) Presiding Officer.

(1)(A) The county judge shall preside over the quorum court without a vote but with the power of veto.

(B) In the absence of the county judge, a quorum of the justices by majority vote shall elect one (1) of their number to preside but without the power to veto.

(2)(A) The presiding officer shall appoint all regular and special committees of a quorum court, subject to any procedural rules that may be adopted by ordinance.

(B) A regular committee or special committee of the quorum court shall not consist of more than a quorum of the whole body without the consent of the county judge.

(e) Procedural Rules and Attendance at Meetings. Except as otherwise provided by law, the quorum court of each county shall determine its rules of procedure and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance.

(f) Quorum. A majority of the whole number of justices composing a quorum court shall constitute a quorum and is necessary to conduct any legislative affairs of the county.

(g) Legislative Affairs. All legislative affairs of a quorum court shall be conducted through the passage of ordinances, resolutions, or motions.

(h) Majority Vote Required. All legislative actions of a quorum court, excluding the adoption of a motion, shall require a majority vote of the whole number of justices composing a quorum court unless otherwise provided by the Arkansas Constitution or by law. A motion shall require a majority vote of the whole number of justices composing a quorum for passage.

(i) County Ordinance. A county ordinance is defined as an enactment of compulsory law for a quorum court that defines and establishes the permanent or temporary organization and system of principles of a county government for the control and conduct of county affairs.

(j) County Resolution. A county resolution is defined as the adoption of a formal statement of policy by a quorum court, the subject matter of which would not properly constitute an ordinance. A resolution may be used whenever the quorum court wishes merely to express an opinion as to some matter of county affairs, and a resolution shall not serve to compel any executive action.

(k) Motion. A motion is defined as a proposal to take certain action or an expression of views held by the quorum court body. As such, a motion is merely a parliamentary procedure that precedes the adoption of resolutions or ordinances. Motions shall not serve to compel any executive action unless such action is provided for by a previously adopted ordinance or state law.

(l) Ordinances. Ordinances may be amended and repealed only by ordinances.

(m) Resolutions. Resolutions may be amended and repealed only by resolutions.

(n) Initiative and Referendum. All ordinances shall be subject to initiative and referendum as provided for through Arkansas Constitution, Amendment 7.

History. Acts 1977, No. 742, § 85; 1979, No. 413, § 21; A.S.A. 1947, § 17-4002; Acts 1991, No. 406, § 1; 1997, No. 1300, § 24; 2001, No. 901, § 1; 2003 (2nd Ex. Sess.), No. 105, § 5; 2005, No. 252, § 1; 2011, No. 837, § 3; 2013, No. 127, § 2; 2013, No. 985, §§ 1, 2.

Amendments. The 2011 amendment inserted (a)(2).

The 2013 amendment by No. 127 rewrote (a)(1).

The 2013 amendment by No. 985, in (c), designated paragraphs as (c)(1) and (c)(2) and inserted (c)(3); and, in (d), designated paragraphs as (d)(1)(A), (d)(1)(B), and (d)(2)(A) and inserted (d)(2)(B).

CASE NOTES

Taxes and Appropriations.

Trial court did not err in denying a writ of mandamus brought by pension and retirement board to require county clerk and county collector to collect a four-tenths millage ad valorem tax as the city council did not approve the resolution for the tax prior to the county quorum court's meeting, as required by subdivision (b)(1) of this section. Russellville Police Pension Ret. Bd. v. Johnson, 365 Ark. 99, 225 S.W.3d 357 (2006).

Circuit court judge did not have statutory or constitutional authority to retroactively apply a millage-rate increase to 2007 library taxes after the special election because once a city issued an ordinance authorizing the ad valorem tax rates for 2007, a quorum court had authority pursuant to subdivision (b)(1)(A)(i) of this section to levy taxes for the current year in its November meeting. Robinson v. Villines, 2009 Ark. 632, 362 S.W.3d 870 (2009), rehearing denied, — S.W.3d —, 2010 Ark. LEXIS 47 (Ark. Jan. 21, 2010), appeal dismissed, 2012 Ark. 211, — S.W.3d — (2012).

14-14-905. Adoption and amendment of ordinances generally.

(a) Introduction of Ordinances and Amendments to Existing Ordinances. A county ordinance or amendment to an ordinance may be introduced only by a justice of the peace of the county or through the provisions of initiative and referendum pursuant to Arkansas Constitution, Amendment 7.

(b) Style Requirements. (1) Generally. (A) No ordinance or amendment to an existing ordinance passed by a county quorum court shall contain more than one (1) comprehensive topic and shall be styled "Be It Enacted by the Quorum Court of the County of ....., State of Arkansas; an Ordinance to be Entitled:".

(B) Each ordinance shall contain this comprehensive title, and the body of the ordinance shall be divided into articles, sequentially numbered, each expressing a single general topic related to the single comprehensive topic.

(2) Amendment to Existing Ordinances. No county ordinance shall be revised or amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revised, amended, extended, or conferred shall be reenacted and published at length.

(c) Passage. (1)(A) On the passage of every ordinance or amendment to an existing ordinance, the yeas and nays shall be called and recorded.

(B) A concurrence by a majority of the whole number of members elected to the quorum court shall be required to pass any ordinance or amendment.

(2)(A) All ordinances or amendments to existing ordinances of a general or permanent nature shall be fully and distinctly read on three (3) different days unless two-thirds (⅔) of the members composing the court shall dispense with the rule.

(B) This subdivision (c)(2) shall not serve to:

(i) Require a vote after each individual reading, but a vote only after the third and final reading;

(ii) Require the ordinance or amendment to be read in its entirety on the first, second, or third reading; or

(C) Restrict the passage of emergency, appropriation, initiative, or referendum measures in a single meeting as provided by law.

(d) Approval and Publication. (1)(A) Upon passage, all ordinances or amendments shall be approved by the county judge within seven (7) days unless vetoed and shall become law without his or her signature if not signed within seven (7) days.

(B) The ordinances or amendments shall then be published by the county clerk as prescribed by law.

(2)(A) Approval by the county judge shall be demonstrated by affixing his or her signature and his or her notation of the date signed on the face of an original copy of the proposed ordinance.

(B) This approval and authentication shall apply to all ordinances or amendments to existing ordinances unless the power of veto is invoked.

(e) Effective Date. (1) No ordinance or amendment to an existing ordinance other than an emergency ordinance or appropriation ordinance shall be effective until thirty (30) calendar days after publication has appeared.

(2) An ordinance or amendment to an existing ordinance may provide for a delayed effective date or may provide for the ordinance or amendment to an existing ordinance to become effective upon the fulfillment of an indicated contingency.

(f) Reference to Electors. (1) Generally. (A)(i) At the time of or within thirty (30) days of adoption and prior to the effective date of an ordinance, a quorum court may refer the ordinance to the electors for their acceptance or rejection.

(ii) The referral shall be in the form of a resolution and shall require a three-fifths (3/5) affirmative vote of the whole number of justices constituting a quorum court.

(B) This action by a court shall not be subject to veto and shall constitute a referendum measure.

(2) Manner and Procedure. (A) Any ordinance enacted by the governing body of any county in the state may be referred to a vote of the electors of the county for approval or rejection in the manner and procedure prescribed in Arkansas Constitution, Amendment 7, and laws enacted pursuant thereto, for exercising the local initiative and referendum.

(B) The manner and procedure prescribed therein shall be the exclusive method of exercising the initiative and referendum regarding these local measures.

History. Acts 1977, No. 742, § 86; 1981, No. 220, § 1; A.S.A. 1947, §§ 17-4003, 17-4003.1; Acts 2005, No. 543, § 1.

14-14-906. Penalties for violation of ordinances.

(a) Authority to Establish.

(1)(A) A county quorum court may fix penalties for the violation of any ordinance, and these penalties may be enforced by the imposition of fines, forfeitures, and penalties on any person offending against or violating the ordinance.

(B) The fine, forfeiture, or penalty shall be prescribed in each particular ordinance or in an ordinance prescribing fines, forfeitures, and penalties in general.

(2)(A) A quorum court shall have power to provide, by ordinance, for the prosecution, recovery, and collection of the fines, forfeitures, and penalties.

(B)(i) A quorum court shall not have the power to define an offense as a felony or to impose any fine or penalty in excess of one thousand dollars ($1,000) for any one (1) specified offense or violation, or double that sum for each repetition of the offense or violation.

(ii) If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the ordinance, shall not exceed five hundred dollars ($500) for each day that it may be unlawfully continued.

(b) Disposition. All fines and penalties imposed for violation of any county ordinance shall be paid into the county general fund.

History. Acts 1977, No. 742, § 95; A.S.A. 1947, § 17-4012; Acts 2009, No. 319, § 1.

Amendments. The 2009 amendment substituted "one thousand dollars ($1,000)" for "five hundred dollars ($500)" in (a)(2)(B)(i), substituted "five hundred dollars ($500)" for "two hundred fifty dollars ($250)" in (a)(2)(B)(ii), and made a minor stylistic change.

14-14-915. Initiative and referendum requirements.

(a) Style Requirements of Petitions. A petition for county initiative or referendum filed by the electors shall:

(1) Embrace only a single comprehensive topic and shall be styled and circulated for signatures in the manner prescribed for county ordinances and amendments to ordinances established in this section and § 7-9-101 et seq.;

(2) Set out fully in writing the ordinance sought by petitioners; or in the case of an amendment, set out fully in writing the ordinance sought to be amended and the proposed amendment; or in the case of referendum, set out the ordinance, or parts thereof, sought to be repealed; and

(3) Contain a written certification of legal review by an attorney at law duly registered and licensed to practice in the State of Arkansas. This legal review shall be conducted for the purpose of form, proper title, legality, constitutionality, and conflict with existing ordinances. Legal review shall be concluded prior to the circulations of the petition for signatures. No change shall be made in the text of any initiative or

referendum petition measure after any or all signatures have been obtained.

(b) Time Requirements for Filing Petitions.

(1) Initiative Petitions. All petitions for initiated county measures shall be filed with the county clerk not less than ninety (90) calendar days nor more than one hundred twenty (120) calendar days prior to the date established for the next regular election.

(2) Referendum Petitions. All petitions for referendum on county measures must be filed with the county clerk within sixty (60) calendar days after passage and publication of the measure sought to be repealed.

(3) Certification. All initiative and referendum petitions must be certified sufficient to the county board of election commissioners not less than seventy (70) calendar days prior to a regular general election to be included on the ballot. If the adequacy of a petition is determined by the county clerk less than seventy (70) days prior to the next regular election, the election on the measure shall be delayed until the following regular election unless a special election is called on a referendum measure as provided by law.

(c) Filing of Petitions. Initiative and referendum petitions ordering the submission of county ordinances or measures to the electors shall be directed to and filed with the county clerk.

(d) Sufficiency of Petition. Within ten (10) days after the filing of any petition, the county clerk shall examine and ascertain its sufficiency. Where the petition contains evidence of forgery, perpetuated either by the circulator or with his or her connivance, or evidence that a person has signed a name other than his or her own to the petition, the prima facie verity of the circulator's affidavit shall be nullified and disregarded, and the burden of proof shall be upon the sponsors of petitions to establish the genuineness of each signature. If the petition is found sufficient, the clerk shall immediately certify such finding to the county board of election commissioners and the quorum court.

(e) Insufficiency of Petition and Recertification. If the county clerk finds the petition insufficient, the clerk shall, within ten (10) days after the filing thereof, notify the petitioners or their designated agent or attorney of record, in writing, setting forth in detail every reason for the findings of insufficiency. Upon notification of insufficiency of petition, the petitioners shall be afforded ten (10) calendar days, exclusive of the day notice of insufficiency is receipted, in which to solicit and add additional signatures, or to submit proof tending to show that signatures rejected by the county clerk are correct and should be counted. Upon resubmission of a petition which was previously declared insufficient, the county clerk shall, within five (5) calendar days, recertify its sufficiency or insufficiency in the same manner as prescribed in this section and, thereupon, the clerk's jurisdiction as to the sufficiency of the petition shall cease.

(f) Appeal of Sufficiency or Insufficiency Findings. Any taxpayer aggrieved by the action of the clerk in certifying the sufficiency or

insufficiency of any initiative or referendum petition, may within fifteen (15) calendar days, but not thereafter, may file a petition in circuit court for a review of the findings.

History. Acts 1977, No. 742, § 94; 1979, No. 891, § 1; A.S.A. 1947, § 17-4011; Acts 2009, No. 1480, § 50.

Amendments. The 2009 amendment substituted "not less than ninety (90) calendar days nor more than one hundred twenty (120) calendar days" for "not less than sixty (60) calendar days nor more than ninety (90) calendar days" in (b)(1); and substituted "seventy (70)" for "forty (40)" twice in (b)(3).

CASE NOTES

Sufficiency of Petition.

Trial judge properly set aside a county clerk's certification of initiative petitions and properly instructed an election commission to remove the issue from the ballot because there was sufficient evidence on which the trial judge could rely to find that certain people signed names other than their own on various initiative petitions submitted to the clerk; the trial court was well within its bounds under subsection (d) of this section to reject the validity of those petitions and invalidate all of the signatures. Save Energy Reap Taxes v. Shaw, 374 Ark. 428, 288 S.W.3d 601 (2008).

Trial court erred in dismissing appellants' complaint challenging the validity of a county clerk's certification of a "wet/dry" initiative petition for placement on the ballot at a general election because appellants satisfied their burden of proof under subsection (d) of this section regarding two allegedly forged signatures on a petition; because the county clerk failed to produce any evidence on the issue, all of the signatures on the petition that contained the alleged forgeries had to be decertified. Mays v. Cole, 374 Ark. 532, 289 S.W.3d 1 (2008).

14-14-916. Judicial jurisdiction over initiative and referendum.

(a) Jurisdiction of Circuit Court. Jurisdiction is vested upon the circuit courts to hear and determine petitions for writs of mandamus, injunctions, and all other actions affecting the submission of any proposed county initiative or referendum petitions. All such proceedings and actions shall be heard summarily upon five (5) calendar days' notice in writing and shall have precedence over all other suits and matters before the court.

(b) Limitation of Injunction or Stay of Proceedings. No procedural steps in submitting an initiative or referendum measure shall be enjoined, stayed, or delayed by the order of any court or judge after the petition has been declared sufficient, except in circuit court on petition to review as provided in this section. During the pendency of any proceeding to review, the findings of the county clerk shall be conclusive and binding and shall not be changed or modified by any temporary order or ruling, and no court or judge shall entertain jurisdiction of any action or proceeding questioning the validity of any such ordinance or measure until after it shall have been adopted by the people.

History. Acts 1977, No. 742, § 94; A.S.A. 1947, § 17-4011; Acts 2003, No. 1185, § 21.

CASE NOTES

Jurisdiction.

A chancery court has jurisdiction only to review the action of the county or city clerk in determining the sufficiency of petitions; proper jurisdiction of a suit to question the validity of a proposed measure lies in the circuit court. Dean v. Williams, 339 Ark. 439, 6 S.W.3d 89 (1999).

14-14-917. Initiative and referendum elections.

(a) Time of Election for Initiative and Referendum Measures.

(1) Initiative. Initiative petition measures shall be considered by the electors only at a regular general election at which state and county officers are elected for regular terms.

(2) Referendum. Referendum petition measures may be submitted to the electors during a regular general election and shall be submitted if the adequacy of the petition is determined within the time limitation prescribed in this section. A referendum measure may also be referred to the electors at a special election called for the expressed purpose proposed by petition. However, no referendum petition certified within the time limitations established for initiative measures shall be referred to a special election, but shall be voted upon at the next regular election. No referendum election shall be held less than sixty (60) days after the certification of adequacy of the petition by the county clerk.

(3) Calling Special Elections. The jurisdiction to establish the necessity for a special election on referendum measures is vested in the electors through the provisions of petition. Where such jurisdiction is not exercised by the electors, the county court of each of the several counties may determine such necessity. However, a quorum court may compel the calling of a special election by a county court through resolution adopted during a regularly scheduled meeting of the quorum court. The resolution may specify a reasonable time limitation in which a county court order calling the special election shall be entered.

(4) Time of Special Election. The county court shall fix the date for the conduct of any special elections on referendum measures. The date shall be not less than established under § 7-11-201 et seq. When the electors exercise their powers to establish the necessity for a special election, the county court shall order an election according to the dates stated in § 7-11-201 et seq.

(b) Certification Requirements.

(1) Numeric Designation of Initiative and Referendum Measures. The county clerk shall, upon finding an initiative or referendum petition sufficient and prior to delivery of such certification to a board of election commissioners and quorum court, cause the measure to be entered into the legislative agenda register of the quorum court. This entry shall be in the order of the original filing of petition, and the register entry number shall be the official numeric designation of the proposed measure for election ballot purposes.

(2) Certification of Sufficiency. The certification of sufficiency for initiative and referendum petitions transmitted by the county clerk to

the county board of election commissioners and quorum court shall include the ballot title of the proposed measure, the legislative agenda registration number, and a copy of the proposed measure, omitting signatures. The ballot title certified to the board shall be the comprehensive title of the measure proposed by petition, and the delivery of the certification to the chairman or secretary of the board shall be deemed sufficient notice to the members of the board and their successors.

(c) Notice of Election.

(1) Initiative Petitions. The county clerk shall, upon certification of any initiative or referendum petition measure submitted during the time limitations for a regular election, give notice, through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election and shall include the full text, the ballot title, and the official numeric designation of the measure.

(2) Referendum Petition. The county clerk shall, upon certifying any referendum petition prior to the time limitations of filing measures established for a regular election, give notice through publication by a one-time insertion in a newspaper of general circulation in the county or as provided by law. Publication notice shall state that the measure will be submitted to the electors for adoption or rejection at the next regular election or a special election when ordered by the county court and shall include the full text, the ballot title, and the official numeric designation of the measure.

(3) Publication of Special Referendum Election Notice. Upon filing of a special election order by the county court, the county clerk shall give notice of the election through publication by a two-time insertion, at not less than a seven-day interval, in a newspaper of general circulation in the county or as provided by law. Publication shall state that the measure will be submitted to the electors for adoption or rejection at a special election and shall include the full text, the date of the election, the ballot title, and official numeric designation of the measure.

(4) Costs. The cost of all publication notices required in this section shall be paid out of the county general fund.

(d) Ballot Specifications for Initiative and Referendum Measures. Upon receipt of any initiative or referendum measure certified as sufficient by a county clerk, it shall be the duty of the members of the county board of election commissioners to take due cognizance and to certify the results of the vote cast thereon. The board shall cause the ballot title to be placed on the ballot to be used in the election, stating plainly and separately the title of the ordinance or measure so initiated or referred to the electors with these words:

FOR PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT)

NO. _____

AGAINST PROPOSED INITIATIVE (OR REFERRED) ORDINANCE (OR AMENDMENT)

NO. _____

so electors may vote upon such ordinance or measure. In arranging the ballot title on the ballot, the commissioners shall place it separate and apart from the ballot titles of the state acts, constitutional amendments, and the like. If the board of election commissioners fails or refuses to submit a proposed initiative or referendum ordinance when it is properly petitioned and certified as sufficient, the qualified electors of the county may vote for or against the ordinance or measure by writing or stamping on their ballots the proposed ballot title, followed by the word "FOR" or "AGAINST", and a majority of the votes so cast shall be sufficient to adopt or reject the proposed ordinance.

(e) Conflicting Measures. Where two (2) or more ordinances or measures shall be submitted by separate petition at any one (1) election, covering the same subject matter and being for the same general purpose, but different in terms, words, and figures, the ordinance or measure receiving the greatest number of affirmative votes shall be declared the law, and all others shall be declared rejected.

(f) Contest of Election. The right to contest the returns and certification of the vote cast upon any proposed initiative or referendum measure is expressly conferred upon any ten (10) qualified electors of the county. The contest shall be brought in the circuit court and shall be conducted under the procedure for contesting the election of county officers, except that the complaint shall be filed within sixty (60) days after the certification of the vote and no bond shall be required of the contestants.

(g) Vote Requirement for Enactment of Ordinance. Any measure submitted to the electors as provided in this section shall take effect and become law when approved by a majority of the votes cast upon the measure, and not otherwise, and shall not be required to receive a majority of the electors voting at the election. The measure so enacted shall be operative on and after the thirtieth day after the election at which it is approved, unless otherwise specified in the ordinance or amendment.

History. Acts 1977, No. 742, § 94; A.S.A. 1947, § 17-4011; Acts 2003, No. 1441, § 2; 2007, No. 1049, § 35; 2009, No. 1480, § 51.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" twice in (a)(4).

Cross References. Special school elections, § 6-14-102.

Special election on petition of school district board of directors, § 6-14-105 [Repealed].

Time of special elections, § 7-5-103 [Repealed].

14-14-919. Referendum petitions on county bond issue.

All referendum petitions under Arkansas Constitution, Amendment 7, against any measure, as the term is used and defined in Arkansas Constitution, Amendment 7, pertaining to a county bond issue or a short-term financing obligation of a county under Arkansas Constitu-

tion, Amendment 78, must be filed with the county clerk within thirty (30) days after the adoption of any such measure.

History. Acts 1979, No. 717, § 1; A.S.A. 1947, § 17-4011.1; Acts 2001, No. 981, § 1.

A.C.R.C. Notes. Acts 2001, No. 981, § 2, provided: "All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Subchapter 10 — Judicial Powers

SECTION.

14-14-1001. County court generally.

(a) Courts of Record. The county court shall be a court of record and shall keep just and faithful records of its proceedings.

(b) Seal of the Court. The county court of each county shall preserve and keep a seal with such emblems and devices as the court deems proper. The seal shall be clear and legible and capable of photographic reproduction. The impression of the seal of the court by stamp shall be sufficient sealing in all cases in which sealing is required.

(c) Establishment of Office. The county judge shall maintain an office in a county building at the county seat. The office shall be open to the public during normal business hours. However, in counties having more than one (1) county seat or judicial district, the county court may prescribe the times and places the offices shall be open to the public for the transaction of county business.

(d) Term of the County Court. The terms of the county courts shall be held at the times that are prescribed for holding the supervisor's courts or may otherwise be prescribed by law. There shall be no adjournment of county courts, but the courts shall be deemed in recess when not engaged in the transaction of county business. In counties having more than one (1) judicial district, the county court shall be concurrently in session in each district.

(e) Disqualification of Judges. Whenever a judge of the county may be disqualified for presiding in any cause pending in his or her court, he or she shall certify the facts to the Governor, who shall thereupon commission a special judge to preside in the cause during the time the disqualification may continue or until the cause may be fully disposed of.

History. Acts 1977, No. 742, § 81; 1979, No. 413, § 19; A.S.A. 1947, § 17-3904; Acts 2005, No. 1227, § 1; 2013, No. 469, § 1.

Amendments. The 2013 amendment inserted the second sentence in (b).

14-14-1002. Other judicial authorities of county court.

(a) Injunctions, Restraining Orders, and Provisional Writs. In case of the absence of the circuit judge from the county, the county court may issue injunctions, restraining orders, and other provisional writs after the action has been commenced, but not before. However, either party may have the order reviewed by the circuit judge.

(b) Defense of County. In cases when appeals are prosecuted in the circuit court or Supreme Court, the county judge shall defend them, and all expenses or money paid out by reason of his or her defense shall be repaid by the proper county, by order of the county court.

(c) Writs of Habeas Corpus. The county judge shall have power, in the absence of the circuit judge from the county, to issue, hear, and determine writs of habeas corpus, under such regulations and restrictions as shall be provided by law.

(d) Compensation. The county judge shall receive such compensation for his or her services as presiding judge of the county court as may be provided by law.

History. Acts 1977, No. 742, § 82; 1979, No. 413, § 20; A.S.A. 1947, § 17-3905; Acts 2003, No. 1185, § 22.

CASE NOTES

Cited: Villines v. Harris, 340 Ark. 319, 11 S.W.3d 516 (2000).

Subchapter 11 — Executive Powers

SECTION.
14-14-1102. Exercise of powers by county judge.

14-14-1102. Exercise of powers by county judge.

(a) Performance. The General Assembly determines that the executive powers of the county judge as enumerated in Arkansas Constitution, Amendment 55, § 3, are to be performed by him or her in an executive capacity and not by order of the county court.

(b) Procedures. In the exercise of the executive powers of the county judge as enumerated, the county judge shall adhere to the following procedures:

(1) Operation of System of County Roads, Bridges, and Ferries.

(A)(i) The county judge shall be responsible for the administrative actions affecting the conduct of a plan of public roadways and bridges throughout the unincorporated areas of the county, including the maintenance and construction of public roadways and bridges and roadway drainage designated as eligible for expenditure of county funds. This jurisdiction shall be exercised pursuant to law, and nothing in this section shall be construed as limiting a county in

performing public roadway and bridge maintenance and construction services within the incorporated municipal boundaries where permitted and in the manner prescribed by law.

(ii) For the purposes of this section, the term "bridges" shall include all structures erected over a river, creek, ditch, or obstruction in a public roadway. The county judge shall administer the operation of county-owned ferries.

(B)(i) The county court shall continue to exercise the powers granted by law for the granting of a right to maintain a ferry by a private individual at a particular place and at which a toll for the transportation of persons or property is levied to conduct an uninterrupted roadway over interrupted waters.

(ii) The quorum court may, by ordinance, establish appropriate procedures and schedules of tolls that may be charged by private individuals who are granted authority to operate a private ferry on connecting public roadways;

(2) Authorization and Approval of the Disbursement of Appropriated County Funds.

(A)(i) All vouchers for the payment of county funds out of the county treasury shall be approved and filed by the county judge or his or her designated representative, who shall be appointed by executive order of the judge and who shall be bonded in an amount equal to the county judge's bond in the manner provided by law.

(ii) Approval for payment shall be signified by the signature of the county judge or his or her designated representative.

(iii) A copy of the executive order evidencing the designated representative's appointment shall be filed in the office of county clerk with the original of the surety bond on the designated representative.

(B) Before approving any voucher for the payment of county funds, the county judge, or his or her designated representative, shall determine that:

(i) There is a sufficient appropriation available for the purpose and there is a sufficient unencumbered balance of funds on hand in the appropriate county fund to pay therefor;

(ii) The expenditure is in compliance with the purposes for which the funds are appropriated;

(iii) All state purchasing laws and other state laws or ordinances of the quorum court are complied with in the expenditure of the moneys;

(iv) The goods or services for which expenditure is to be made have been rendered and the payment thereof has been incurred in a lawful manner and is owed by the county. However, a county judge may approve, in advance, claims payable to the University of Arkansas Cooperative Extension Service for educational services to be rendered during all or part of the current fiscal year.

(C)(i) No money shall be paid out of the treasury until it shall have been appropriated by law and then only in accordance with the appropriation; and all contracts for erecting and repairing the public

buildings in any county or for materials therefor, or for providing for the care and feeding of paupers where there are no public or private facilities or services available for such purpose, shall be given to the lowest possible bidder under such regulations as may be prescribed by law.

(ii) The county judge shall have the authority to enter into necessary contracts or other agreements to obligate county funds and to approve expenditure of county funds appropriated therefor in the manner provided by law.

(iii)*(a)* The county judge of each county may promulgate appropriate administrative rules and regulations, after notice and hearing thereon, for the conduct of county financial affairs.

(b) The administrative rules and regulations shall be consistent with the provisions of laws relating to financial management of county government and the appropriate ordinances enacted by the quorum court.

(c) All such administrative rules and regulations adopted after hearings by the county judge shall be certified by the county judge and filed in the office of the county clerk to be open to public inspection at all normal hours of business.

(3)(A) Custody of County Property. The county judge, as the chief executive officer of the county, shall have custody of county property and is responsible for the administration, care, and keeping of such county property, including the right to dispose of county property in the manner and procedure provided by law for the disposal of county property by the county court. The county judge shall have the right to lease, assign, or not assign use of such property whether or not the county property was purchased with county funds or was acquired through donations, gifts, grants, confiscation, or condemnation.

(B) In addition to other terms the county court finds reasonable and proper, the contract for the lease of county property shall provide that when the leased property ceases to be used for the purpose expressed in the lease or needs to be used by the county, the lease may be cancelled by the county court after reasonable notice.

(4) Administration of Ordinances Enacted by the Quorum Court. The county judge shall be responsible for the administration and performing the executive functions necessary for the management and conduct of county affairs, as prescribed by ordinance of the quorum court, unless the performance of such duties is vested in the county court by ordinances enacted by the quorum court or by the general laws of this state.

(5)(A) Hiring of County Employees, Except Those Persons Employed by Other Elected Officials of the County. The county judge, as the chief executive officer of the county, is responsible for the employment of the necessary personnel or for the purchase of labor or services performed by individuals or firms employed by the county or an agency thereof for salaries, wages, insurance, or other forms of compensation.

(B)(i) "County or subdivisions thereof," for the purposes of this section, means all departments except departments administratively assigned to other elected officials of the county, boards, and subordinate service districts created by county ordinance.

(ii)*(a)* Jurisdiction for the hiring of employees of counties, administrative boards, or subordinate service districts may be delegated by ordinance to such board or service district, but where any county ordinance delegating authority to hire county employees interferes with the jurisdiction of the county judge, as provided in this section, it shall be implied that such delegation shall be performed only with the approval of the county judge.

(b) The jurisdiction to purchase the labor of an individual for salary or wages employed by other elected officials of the county shall be vested in each respective elected official.

(6) Presiding over the Quorum Court Without a Vote, but with the Power of Veto.

(A) In presiding over the quorum court, the county judge shall perform such duties in connection therewith as may be provided by state law and in accordance with rules and procedures promulgated by the court for the conduct of its business.

(B) Nothing in this subdivision shall limit the veto power of the county judge as provided in Arkansas Constitution, Amendment 55.

(7) Accepting Gifts, Grants, and Donations from Federal, Public, or Private Sources.

(A) The county judge, as the chief executive officer, is authorized to accept, in behalf of the county, gifts, grants, and donations of real or personal property for use of the county. He or she may apply for, enter into necessary contracts, receive, and administer for and in behalf of the county, subject to such appropriation controls that the quorum court may elect to adopt by ordinance, funds from the federal government, from other public agencies, or from private sources.

(B) All such contracts or agreements shall be filed as public record with the county clerk.

History. Acts 1977, No. 742, § 78; 1979, No. 98, § 1; 1979, No. 413, §§ 16, 17; 1981, No. 994, § 1; 1983, No. 183, § 1; 1983, No. 232, § 1; A.S.A. 1947, § 17-3901; Acts 1997, No. 387, § 1; 2009, No. 410, §§ 1, 2; 2011, No. 837, § 4.

Amendments. The 2009 amendment inserted (b)(3)(B) and redesignated the remaining text accordingly, inserted "lease" in (b)(3)(A), inserted "insurance" in (b)(5)(A), and made minor stylistic and punctuation changes

The 2011 amendment inserted "or her" in (b)(2)(A)(i); and deleted "manual" preceding "signature" in (b)(2)(A)(ii).

CASE NOTES

Analysis

County Employees.
Expenditures.

County Employees.

When a county judge entered into a collective bargaining agreement (CBA) with the union, the judge exercised his executive responsibility to provide county employees with other forms of compensation; therefore, the judge acted within his capacity to bind the county to the CBA and the county had an obligation to pay the insurance premiums for the county employees' dependents. AFSCME, Local 380 v. Hot Spring County, 362 F. Supp. 2d 1035 (W.D. Ark. 2004).

Expenditures.

Summary judgment for gas company in its declaratory action was proper because the county's grant of a pipeline easement to manufacturer was null and void due to the county's failure to follow the appraisal, notice, and bidding procedures required in § 14-16-105; § 14-16-105 provides the "manner and procedure" for the conveyance of the pipeline easement and this section, which pertains to the use of county property, does not allow the county judge to forego the procedures set out in § 14-16-105. MacSteel Div. of Quanex v. Arkansas Oklahoma Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005).

14-14-1105. Jurisdiction of county court.

CASE NOTES

County Taxes.

The county court, and not the circuit court, had jurisdiction over a matter pertaining to the assessment of a penalty resulting from the delinquent payment of county taxes. Villines v. Pulaski County Bd. of Educ., 341 Ark. 125, 14 S.W.3d 510 (2000).

Circuit court was without jurisdiction and the claim against the county, tax assessor, city, and school district should have been filed in county court, pursuant to Ark. Const., Art. 7, § 28, because the taxpayers alleged that an erroneous assessment occurred for which they sought a refund of property taxes. Muldoon v. Martin, 103 Ark. App. 64, 286 S.W.3d 201 (2008).

Arkansas Supreme Court lacked jurisdiction to consider the appeal from the circuit court, because the circuit court lacked jurisdiction to dismiss the complaint for failure to state a cause of action, when appellants' complaint challenged how the county was distributing the proceeds collected from the library tax, and such a challenge to the distribution of the tax proceeds should have been raised in county court pursuant to Ark. Const. Art. 7, § 28 and subdivision (b)(1) of this section; it was undisputed that the case dealt with a county ad valorem tax. Carnegie Pub. Library v. Carroll County, 2012 Ark. 128, — S.W.3d — (2012).

Subchapter 12 — Personnel Procedures

Effective Dates. Acts 2009, No. 616, § 3: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly that the provisions of this act change the calculation of compensation for retirement purposes and should become effective on July 1, 2009, for consistent application and to avoid confusion; and that unless this emergency clause is adopted, this act will not go into effect until after the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 2009."

14-14-1202. Ethics for county government officers and employees.

(a) Public Trust.

(1) The holding of public office or employment is a public trust created by the confidence which the electorate reposes in the integrity of officers and employees of county government.

(2) An officer or employee shall carry out all duties assigned by law for the benefit of the people of the county.

(3) The officer or employee may not use his or her office, the influence created by his or her official position, or information gained by virtue of his or her position to advance his or her individual personal economic interest or that of an immediate member of his or her family or an associate, other than advancing strictly incidental benefits as may accrue to any of them from the enactment or administration of law affecting the public generally.

(b) Officers and Employees of County Government Defined.

(1) For purposes of this section, officers and employees of county government shall include:

(A)(i) All elected county and township officers;

(ii) All district judicial officers serving a county; and

(iii) All members of county boards, advisory, administrative, or subordinate service districts; and

(B) All employees thereof.

(2) Officials who are considered to be state officers or deputy prosecuting attorneys are not covered by this subsection.

(c) Rules of Conduct.

(1) No officer or employee of county government shall:

(A)(i) Be interested, either directly or indirectly, in any contract or transaction made, authorized, or entered into on behalf of the county or an entity created by the county, or accept or receive any property, money, or other valuable thing for his or her use or benefit on account of, connected with, or growing out of any contract or transaction of a county.

(ii)*(a)* If in the purchase of any materials, supplies, equipment, or machinery for the county, any discounts, credits, or allowances are given or allowed, they shall be for the benefit of the county.

(b) It shall be unlawful for any officer or employee to accept or retain them for his or her own use or benefit;

(B) Be a purchaser at any sale or a vendor of any purchase made by him or her in his or her official capacity;

(C) Acquire an interest in any business or undertaking which he or she has reason to believe may be directly affected to its economic benefit by official action to be taken by county government;

(D)(i) Perform an official act directly affecting a business or other undertaking to its economic detriment when he or she has a substantial financial interest in a competing firm or undertaking.

(ii) Substantial financial interest is defined for purposes of this section as provided in Acts 1971, No. 313, § 7 [repealed].

(2)(A)(i) If the quorum court determines that it is in the best interest of the county, the quorum court may by ordinance permit the county to purchase goods or services directly or indirectly from quorum court members, county officers, or county employees due to unusual circumstances.

(ii) The ordinance permitting the purchases must specifically define the unusual circumstances under which the purchases are allowed and the limitations of the authority.

(B) Any quorum court member having any interest in the goods or services being considered under these procedures shall not be entitled to vote upon the approval of the goods or services.

(C) If goods or services are purchased under these procedures, the county judge must file an affidavit, together with a copy of the voucher and other documents supporting the disbursement, with the county clerk certifying that each disbursement has been made in accordance with the provisions of the ordinance.

(3)(A) No person shall simultaneously hold office and serve as an elected county justice of the peace and hold office and serve as an elected city council member.

(B) This subdivision (c)(3) shall not cut short the term of any office holder serving as such on September 1, 2005, but shall be implemented during the next election cycle of each office.

(d) Removal from Office or Employment.

(1) Court of Jurisdiction. Any citizen of a county or the prosecuting attorney of a county may bring an action in the circuit court in which the county government is located to remove from office any officer or employee who has violated the rules of conduct set forth in this section.

(2) Suspension Prior to Final Judgment.

(A) Pending final judgment, an officer or employee who has been charged as provided in this section may be suspended from his or her office or position of employment without pay.

(B) Suspension of any officer or employee pending final judgment shall be upon order of the circuit court or judge thereof in vacation.

(3) Punishment.

(A) Judgment upon conviction for violation of the rules of conduct set forth in this section shall be deemed a misdemeanor.

(B) Punishment shall be by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000), and the

officer or employee shall be removed from office or employment of the county.

(4) Acquittal. Upon acquittal, an officer or employee shall be reinstated in his or her office or position of employment and shall receive all back pay.

(5) Legal Fees.

(A) Any officer or employee charged as provided in this section and subsequently acquitted shall be awarded reasonable legal fees incurred in his or her defense.

(B)(i) Reasonable legal fees shall be determined by the circuit court or the Supreme Court on appeal.

(ii) Such legal fees shall be ordered paid out of the general fund of the county treasury.

History. Acts 1977, No. 742, § 115; A.S.A. 1947, § 17-4208; Acts 1987, No. 930, § 1; 1989, No. 352, § 1; 1989, No. 681, § 1; 2005, No. 1924, § 1.

14-14-1203. Compensation and expense reimbursements generally.

(a) Appropriation Required. All compensation, including salary, hourly compensation, expense allowances, training expenses, and other remunerations, allowed to any county or district officer or employee thereof shall be made only on specific appropriation by the quorum court of the county.

(b) Payments on Claims Approved by the County Judge. All compensation, including salary, hourly compensation, expense allowances, training expenses, and other remuneration, allowed to any county or district officer or employee thereof shall be made only upon claim or voucher presented to the county judge and approved by him or her in the manner prescribed by law for disbursement of county funds.

(c) Expense Reimbursement.

(1) Except as provided under subdivision (c)(2) of this section, all expense allowances, training expenses, and remunerations other than salary provided in this subchapter shall be made only upon voucher or claim itemizing the allowances or expenses, prepared in the manner prescribed by law, and presented to and approved by the county judge in the manner prescribed by law for the disbursement of county funds.

(2) County officials may make cash advances for travel-related expenses to employees, subject to rules adopted by the Legislative Joint Auditing Committee.

(d) Decreases in Salary. Any decrease in the annual salary or compensation of a county officer shall not become effective until January 1 following a general election held after the decrease has been fixed by the quorum court of the county.

(e) Enterprise Accounts Prohibited. An elected county or district officer or employee of the county or district shall not individually maintain or operate an account for financing self-supporting activities that render services on a user charge basis to the general public.

History. Acts 1977, No. 742, § 112; 1983, No. 233, § 1; A.S.A. 1947, § 17-4205; Acts 2011, No. 614, § 1.

Amendments. The 2011 amendment inserted "training expenses" in (a), (b) and (c)(1); substituted "district" for "township" in (a), (b) and (e); inserted "or her" in (b); inserted "Except as provided under subdivision (c)(2) of this section" in (c)(1); and added (c)(2).

14-14-1204. Compensation of elected county officers.

(a) The quorum court of each county shall fix by ordinance the annual salaries of the following county officers within the minimums and maximums provided in this section:

(1) The county judge;
(2) The sheriff and ex officio collector of taxes;
(3) The collector of taxes, where established by law;
(4) The circuit clerk;
(5) The county clerk, where established by law;
(6) The assessor;
(7) The treasurer;
(8) The coroner; and
(9) The surveyor.

(b) For purposes of determining the salaries of the elected county officers, unless otherwise specifically provided in this section, the counties shall be classified on the basis of population, as determined by the preceding federal decennial census, according to the following classifications:

Classification	Population
Class 1	0 to 9,999
Class 2	10,000 to 19,999
Class 3	20,000 to 29,999
Class 4	30,000 to 49,999
Class 5	50,000 to 69,999
Class 6	70,000 to 199,999
Class 7	200,000 and above

(c)(1) The annual salary of a county judge shall be in compensation for his or her services as the executive and administrator for the county, as judge of the county court, as judge of the court of common pleas, where established, as presiding officer of the quorum court, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county judge of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $30,000 nor more than $74,640
Class 2	not less than $31,000

Classification	Salary per Annum
	nor more than $76,095
Class 3	not less than $32,000
	nor more than $77,550
Class 4	not less than $33,000
	nor more than $79,005
Class 5	not less than $34,000
	nor more than $80,459
Class 6	not less than $35,000
	nor more than $86,278
Class 7	not less than $36,000
	nor more than $99,223

(d)(1)(A) The annual salary of a sheriff shall be compensation for services as a law enforcement officer, as the supervisor of the county jail, as custodian of persons accused or convicted of crimes, as an officer of the circuit court or county court, as the ex officio county tax collector and delinquent tax collector in those counties where that office is combined with the office of sheriff, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of sheriff and collector are combined into a single office, the maximum and minimum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the sheriff of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $30,000
	nor more than $74,640
Class 2	not less than $31,000
	nor more than $76,095
Class 3	not less than $32,000

Classification	Salary per Annum
	nor more than $77,550
Class 4	not less than $33,000
	nor more than $79,005
Class 5	not less than $34,000
	nor more than $80,459
Class 6	not less than $35,000
	nor more than $86,278
Class 7	not less than $36,000
	nor more than $99,223

(e)(1) In those counties where the office of county tax collector has been separated from the office of sheriff, the annual salary of a county tax collector shall be in compensation for services as tax collector and delinquent tax collector and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county tax collector in those counties where the office has been separated from the office of sheriff shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000
	nor more than $70,276
Class 2	not less than $28,000
	nor more than $71,731
Class 3	not less than $29,000
	nor more than $73,186
Class 4	not less than $30,000
	nor more than $74,640
Class 5	not less than $31,000
	nor more than $76,095
Class 6	not less than $32,000
	nor more than $80,459
Class 7	not less than $33,000
	nor more than $93,404

(f)(1)(A) The annual salary of a county and probate clerk shall be in compensation for his or her services as county clerk, probate clerk, clerk of the county court, clerk of the quorum court, registrar of voters, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In those counties where the office of county and probate clerk is combined with the office of circuit clerk and ex officio recorder, the salary shall be as provided in this section.

(C) In those counties where the office of county and probate clerk is combined with the office of circuit clerk and ex officio recorder, the minimum and maximum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the county and probate clerk of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(g)(1)(A) The annual salary of a circuit clerk and ex officio recorder shall be in compensation for his or her services as clerk of the circuit court, as ex officio recorder, and for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In those counties where the office of circuit clerk and ex officio recorder is combined with the office of county and probate clerk, the minimum and maximum salaries for that office in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500

Classification	Additional Salary
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the circuit clerk and ex officio recorder of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(h)(1)(A) The annual salary of a county assessor shall be in compensation for all services performed as county assessor, appraiser, and as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of assessor and collector are combined into a single office, the maximum and minimum salaries of the county assessor and collector in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum of the county assessor of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000 nor more than $73,186
Class 4	not less than $30,000 nor more than $74,640
Class 5	not less than $31,000 nor more than $76,095
Class 6	not less than $32,000 nor more than $80,459
Class 7	not less than $33,000 nor more than $93,404

(i)(1)(A) The annual salary of a county treasurer shall be in compensation for all services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(B) In any county in which the offices of treasurer and collector are combined into a single office, the maximum and minimum salaries of the county treasurer and collector in the appropriate county classification shall be increased by the following amounts:

Classification	Additional Salary
Class 1	$1,500
Class 2	$1,500
Class 3	$2,500
Class 4	$2,500
Class 5	$3,000
Class 6	$3,000
Class 7	$4,000

(2) The minimum and maximum salaries per annum for the county treasurer of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $27,000 nor more than $70,276
Class 2	not less than $28,000 nor more than $71,731
Class 3	not less than $29,000

Classification	Salary per Annum
	nor more than $73,186
Class 4	not less than $30,000
	nor more than $74,640
Class 5	not less than $31,000
	nor more than $76,095
Class 6	not less than $32,000
	nor more than $80,459
Class 7	not less than $33,000
	nor more than $93,404

(j)(1) The compensation of a county coroner shall be for all services performed as provided by the Arkansas Constitution, by law, or by county ordinance.

(2) The minimum and maximum salaries per annum of the county coroner of a county shall be as follows:

Classification	Salary per Annum
Class 1	not less than $3,802
	nor more than $12,990
Class 2	not less than $4,302
	nor more than $13,990
Class 3	not less than $4,803
	nor more than $16,990
Class 4	not less than $5,303
	nor more than $30,990
Class 5	not less than $5,800
	nor more than $40,900
Class 6	not less than $6,300
	nor more than $48,990
Class 7	not less than $33,000
	nor more than $93,404

(k) Compensation of the county surveyor shall be fixed by the quorum court.

History. Acts 1977, No. 742, § 108; 1979, No. 151, § 1; 1981, No. 806, § 1; 1983, No. 446, § 1; 1985, No. 398, § 1; A.S.A. 1947, § 17-4201; Acts 1989, No. 694, § 1; 1991, No. 1161, § 1; 1993, No. 954, § 1; 1995, No. 661, § 1; 1997, No. 759, § 1; 1999, No. 1424, § 1; 2001, No. 1170, § 1; 2003, No. 109, § 1; 2005, No. 1214, § 1; 2007, No. 526, § 1; 2009, No. 320, § 1.

Amendments. The 2009 amendment rewrote the salary per annum amounts throughout the section and (d)(1)(B), (f)(1)(C), (g)(1)(B), (h)(1)(B), and (i)(1)(B).

CASE NOTES

County Clerks.

School district was not required to reimburse a county for overtime pay provided by the county to the county clerk for work related to a school district election because the clerk was not entitled to overtime pay, since (1) a contract to pay an officer more or less compensation than that fixed by law was contrary to public policy and void; (2) although this section provided ranges for the salaries of elected county officers such as the clerk, it still instructed that, pursuant to those ranges, the annual salaries were to be fixed by ordinance; and (3) overtime pay to the county clerk was not an appropriate election expense pursuant to § 6-14-118, as given the history of this statute, it was clear that the legislature did not anticipate overtime pay of elected county officials when it created a law requiring school districts to pay for election expenses. Helena-West Helena Sch. Dist. v. Fluker, 371 Ark. 574, 268 S.W.3d 879 (2007).

14-14-1205. Compensation of township officers.

(a)(1)(A) The per diem compensation for justices of the peace attending any official, regular, special, or committee meeting of a quorum court shall be fixed by ordinance in each county.

(B) The per diem compensation of justices shall not be less than one hundred twenty-five dollars ($125) per diem for each regular meeting nor exceed:

(i) Eight thousand seven hundred thirty-four dollars ($8,734) per calendar year in counties having a population of less than seventy thousand (70,000);

(ii) Ten thousand three hundred seventy-six dollars ($10,376) per calendar year in counties having a population of at least seventy thousand (70,000) and less than two hundred thousand (200,000); and

(iii) Thirteen thousand three hundred nineteen dollars ($13,319) per calendar year in counties having a population of two hundred thousand (200,000) or more.

(2) Per Diem Compensation Defined.

(A) Per diem compensation is defined as a per calendar day allowance, exclusive of allowable expenses, which shall be paid to a justice for attending meetings of the county quorum court. This compensation shall be based on attending meetings of a quorum court during any single calendar day without regard to the duration of the meetings.

(B) However, a member of the quorum court may receive per diem compensation for one (1) meeting per year for which the member is absent due to an emergency or for personal reasons.

(3) In addition to any other compensation expense reimbursement or expense allowances provided members of the quorum court, counties may provide medical insurance coverage for members of the quorum court.

(b) Justices of the Peace Serving in Judicial Capacity. The compensation of all justices of the peace serving in a judicial capacity shall be fixed by ordinance of the quorum court in each county. This basis of

compensation shall not be computed on a percentage of the dollar amount of fines levied by a justice of the peace.

(c) Justice of the Peace as County Employee or Deputy. A justice of the peace shall not receive compensation as a county employee or deputy, nor shall any justice receive compensation or expenses from funds appropriated by the quorum court for any services performed within the county, other than as provided by this subchapter.

(d) Constables. The compensation of all constables serving in any official capacity established by law may be fixed by ordinance of the quorum court in each county.

History. Acts 1977, No. 742, § 109; 1979, No. 151, § 2; 1981, No. 806, § 2; 1983, No. 446, § 2; 1985, No. 398, § 2; A.S.A. 1947, § 17-4202; Acts 1989, No. 694, § 2; 1993, No. 954, § 2; 1995, No. 661, § 2; 1995, No. 1296, § 46; 1997, No. 363, § 1; 1997, No. 759, § 2; 1999, No. 749, § 1; 2001, No. 1170, § 2; 2003, No. 109, § 2; 2005, No. 1214, § 2; 2007, No. 526, § 2; 2009, No. 320, § 2; 2011, No. 561, § 2.

Amendments. The 2009 amendment, in (a)(1)(B), substituted "Eight thousand seven hundred thirty-four dollars ($8,734)" for "Seven thousand five hundred thirty-four dollars ($7,534)" in (a)(1)(B)(i), "Ten thousand three hundred seventy-six dollars ($10,376)" for "Nine thousand one hundred seventy-six dollars ($9,176)" in (a)(1)(B)(ii), and "Thirteen thousand three hundred nineteen dollars ($13,319)" for "Twelve thousand one hundred nineteen dollars ($12,119)" in (a)(1)(B)(iii); and made minor stylistic changes.

The 2011 amendment substituted "may be fixed" for "shall be fixed" in (d).

14-14-1206. Compensation of county employees.

(a) Compensation. The quorum court of each county shall, by ordinance, fix the number and compensation of all county employees, including a bonus or lump-sum payment.

(b)(1) County Employee Defined. "County employee" means an individual or firm providing labor or service to a county government for salary, wages, or any other form of compensation.

(2) As used in this section, "county government" means all offices, departments, boards, and subordinate service districts of county government created by law and subordinate to county government.

History. Acts 1977, No. 742, § 110; A.S.A. 1947, § 17-4203; Acts 2009, No. 616, § 1; 2011, No. 561, § 3.

Amendments. The 2009 amendment inserted "including a bonus or lump sum payment" in (a), and made a related change.

The 2011 amendment subdivided part of (b); in (b)(1), substituted "'County employee' means an" for "A county employee is defined as any" and inserted "government"; and deleted "including townships" preceding "created by" in (b)(2).

14-14-1207. Reimbursement of allowable expenses.

(a) Reimbursement Authorized. All county and district officials and authorized deputies or employees thereof shall be entitled to receive reimbursement of expenses incurred in the conduct of official and nondiscretionary duties under an appropriation for the operating expenses of an office, function, or service. Reimbursement of expenses

that are incurred in the performance of discretionary functions and services may be permitted when provided for by a specific appropriation of the quorum court.

(b) Allowance for Meals, Lodging, and Other Allowable Expenses.

(1) All reimbursements for the purchase of meals, meal tips, lodging, and other allowable expenses shall be based on the actual expense incurred or on a per diem basis if approved by the quorum court.

(2) Reimbursement for meal tips under subdivision (b)(1) of this section shall not exceed fifteen percent (15%) of the purchase amount of the meal.

(3) A per diem reimbursement under subdivision (b)(1) of this section shall be made under an accountable plan as defined by Internal Revenue Service regulations as in existence on January 1, 2009.

(c) Reimbursement of Travel Expense.

(1) Privately Owned Motor Vehicles.

(A)(i) Any elected county or district officer or employee thereof using a privately owned motor vehicle in the conduct of county affairs may be reimbursed at a per-mile rate established by ordinance.

(ii) Reimbursement shall be based only on official miles driven and legitimate automobile parking fees.

(iii) When more than one (1) traveler is transported in the same vehicle, only the owner shall be entitled to mileage reimbursement.

(B) A county shall not assume responsibility for any maintenance, operational costs, accidents, and fines incurred by the owner of the vehicle while on official business for the county.

(2) Privately Owned Airplanes. Reimbursement for travel expense using privately owned airplanes shall be based upon the most direct route in air miles and at the same rate as established for privately owned motor vehicles.

History. Acts 1977, No. 742, § 111; A.S.A. 1947, § 17-4204; Acts 1999, No. 109, § 1; 2009, No. 74, § 1; 2009, No. 732, § 1; 2011, No. 614, § 2.

Amendments. The 2009 amendment by No. 74, in (b), added (b)(2), inserted "meal tips" in the remaining text and redesignated it as (b)(1), and made a related change.

The 2009 amendment by No. 732 rewrote (a); inserted (b)(2) and (b)(3), redesignated the remaining text as (b)(1), and inserted "or on a per diem basis if approved by the quorum court" in (b)(1); substituted "district" for "township" in (c)(1)(A)(i); and made minor stylistic changes.

The 2011 amendment inserted "based upon the most direct route in air miles and" in (2); and deleted (2)(B).

14-14-1210. Cost-of-living adjustment.

(a) Beginning January 1, 2011, and on each January 1 thereafter, three percent (3%) per annum shall be added to the minimum and maximum salaries and per diems of elected county officers as a cost-of-living adjustment.

(b) Beginning September 1, 2010, and on each September 1 thereafter, the Association of Arkansas Counties shall provide each county and the Division of Legislative Audit with a schedule of the minimum and

maximum salaries and per diems of elected county officers with the added cost-of-living adjustment for the following year.

History. Acts 2009, No. 320, § 3.

14-14-1211. Monthly, bimonthly, biweekly, weekly, and hourly salaries for county employees.

(a)(1)(A) Except for those counties that operate principally on a scholastic year, or on a part-time basis, or where salaries or personal services are specifically established for a period less than one (1) year, all salaries established by the General Assembly or the governing body of the county shall be considered to be a maximum amount to be paid for a twelve-month payroll period.

(B) A greater amount than that established for the maximum annual salary of any county official or employee shall not be paid to the employee during any twelve-month payroll period, nor shall more than one-twelfth (1/12) of the annual salary be paid to an employee during a calendar month unless otherwise authorized.

(2) The limitations set out in this section may be converted to biweekly or weekly increments of one-twenty-sixth (1/26) or one-fifty-second (1/52) of the maximum annual salary.

(3) For complying with federal requirements, upon approval of the county judge, the maximum annual salaries may be converted to hourly rates of pay for positions established on the basis of twelve (12) months or less if authorized by law.

(b) The remuneration paid to an employee of the county may exceed the maximum annual salary as authorized by the General Assembly or governing body of the county as follows, and the following shall not be construed as payment for services or as salary as contemplated by Arkansas Constitution, Article 16, § 4:

(1) Overtime payments as authorized by law;

(2) Payment of a lump sum to a terminating employee, to include lump-sum payments of sick leave balances upon retirement as provided by law;

(3) Payment for overlapping pay periods at the end of a fiscal year as defined or authorized by law;

(4) Payment for the biweekly twenty-seven (27) pay periods; and

(5) Payments for incentive, certificate, holiday, or working out of classification.

History. Acts 2013, No. 572, § 1.

Subchapter 13 — Officers Generally

ments — Uniform requirements.

Effective Dates. Acts 2013, No. 378, § 2: Mar. 14, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that sometimes county officers resign from office during their term, often unavoidably; that some of these resignations and subsequent appointments to county office during the same term can conflict with certain retirement laws; and that this act is immediately necessary because it will ensure these conflicts do not occur and will preserve the integrity of county government. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-14-1301. County, quorum court district, and township officers.

(a) County Officers. There shall be elected, until otherwise determined by law, in each of the several counties of this state the following county officers:

(1) County Judge.

(A) The county judge shall:

(i) Perform the administrative and executive functions and duties, and such additional duties as may be provided by law, to be performed by the judge provided in Arkansas Constitution, Amendment 55, § 3;

(ii) Preside over the county quorum court without a vote but with the power of veto; and

(iii) Preside over the county court and exercise those judicial and ministerial duties of the county court that were not transferred to the judge to be performed in his or her capacity as the chief executive officer of the county by Arkansas Constitution, Amendment 55, or as may be provided by law.

(B) The judge shall be:

(i) At least twenty-five (25) years of age;

(ii) A citizen of the United States;

(iii) A person of upright character;

(iv) A person of good business education; and

(v) A resident of the county at the time of his or her election and during his or her continuance in office;

(2) Clerk of the Circuit Court. The clerk of the circuit court shall be clerk of all divisions of the court, ex officio clerk of the county court, and recorder, except as provided in subdivision (a)(3) of this section;

(3) County Clerk. A county clerk may be elected in like manner as a circuit clerk, and in such cases, the clerk may be ex officio clerk of the

probate division of circuit court, if such division exists, in the county until otherwise provided by the General Assembly, and if created as a separate office, bear witness and sign all writs and other judicial process acted upon by the respective courts served by the clerk;

(4) Assessor. The assessor shall perform such duties as are prescribed by law;

(5) Sheriff.

(A) The sheriff, who shall be ex officio collector of taxes, unless otherwise provided by law, shall perform such duties as are prescribed by law. It shall be the general duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies.

(B) The sheriff shall:

(i) Apprehend and commit to jail all felons and other offenders;

(ii) Execute all process directed to him or her by legal authority;

(iii) Attend upon all courts held in his or her county until otherwise provided by law; and

(iv) Perform all other acts and things that are required by law;

(6) Collector of Taxes. A separate collector of taxes may be elected as provided by law. Each collector, upon receiving the tax charge of the county, shall proceed to collect them as may be prescribed by law;

(7) Treasurer. The treasurer, who shall be ex officio treasurer of the common school fund of the county, shall perform such duties as are prescribed by law. However, nothing in this chapter shall be deemed to replace or modify any law of this state authorizing school boards to appoint a treasurer for school districts as provided by law;

(8) County Surveyor. The county surveyor shall perform such duties as are prescribed by law. It shall be the general duty of the surveyor to execute all orders directed by any court of record for surveying or resurveying any tract of land, the title of which is in dispute or in litigation before the court, and to obey all orders of surveys for the partition of real estate, and to provide services to the county court when required for the purpose of surveying and measuring any proposed road;

(9) Coroner. The county coroner shall perform such duties as are prescribed by law.

(b) Quorum Court District and Township Officers.

(1) There shall be elected in each of the quorum court districts of the counties of this state one (1) justice of the peace who shall preside over the justice of the peace courts and perform such judicial duties as may be prescribed by law and who shall serve as a member of the quorum court of the county in which elected and shall perform such legislative duties as may be prescribed by law. Each justice shall be a qualified elector and a resident of the district for which he or she is elected.

(2) There shall be elected in each township, as preserved and continued in § 14-14-401, one (1) constable who shall have the qualifications and perform such duties as may be provided by law.

History. Acts 1977, No. 742, § 41; 1979, No. 413, §§ 6-8; A.S.A. 1947, § 17-3601; Acts 2003, No. 1185, § 23.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Article, If the Constable Blunders, Does the County Pay?: Liability Under Title 42 U.S.C. § 1983, 28 U. Ark. Little Rock L. Rev. 519.

CASE NOTES

Term Limits.

A county initiative fixing term limits for county officials was unlawful and invalid with respect to the county judge and justice of the peace as specific qualifications for those offices are listed in this section. Allred v. McLoud, 343 Ark. 35, 31 S.W.3d 836 (2000).

14-14-1310. Filling vacancies in elective offices.

(a)(1) County Elective Offices. Vacancies in all county elective offices shall be filled by the county quorum court through the process of resolution as prescribed by law.

(2) Eligibility Requirements and Term of Office.

(A) Qualifications. All officers appointed to fill a vacant county elective office shall meet all of the requirements for election to that office.

(B) Requirements. All officers appointed by a quorum court shall subscribe to the oath of office, be commissioned, and be bonded as prescribed by law.

(C)(i) Persons Ineligible for Appointment. Any member of the quorum court shall be ineligible for appointment to fill any vacancy occurring in any county office, and resignation shall not remove such ineligibility. Husbands and wives of justices of the peace and relatives of such justices or their husbands and wives within the fourth degree of consanguinity or affinity shall likewise be ineligible.

(ii) Any county elected officer who resigns during a term of office shall be ineligible for appointment to any county elective office during the term for which he or she resigned.

(D) Term of Office. All officers so appointed shall serve until their successor is elected and qualified.

(E) Successive Terms of Appointed Officer Prohibited. A person appointed to fulfill a vacant or unexpired term of an elective county office shall not be eligible for appointment or election to succeed himself or herself.

(b) Elective Township Offices. All vacancies in elective township offices, including justice of the peace offices, shall be filled by the Governor.

(c) Emergency Vacancies.

(1)(A) During a declaration of an emergency or circumstances that warrant a declaration of an emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of county judge due to death or disability to the degree of inability to perform the duties of office shall

be temporarily filled by executive order of the county judge issued prior to the incapacity of the county judge, designating three (3) persons in succession to fill the vacancy of the office of county judge on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the county judge is abated.

(B) Persons so designated shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(2)(A) During a declaration of an emergency or circumstances that warrant a declaration of emergency under § 12-75-107 or § 12-75-108, a vacancy in the office of sheriff due to death or disability to the degree of inability to perform the duties of office shall be temporarily filled by a policy statement of the sheriff issued prior to the incapacity of the sheriff and adopted by resolution of the quorum court, designating three (3) persons in succession to fill the vacancy in the office of sheriff on an interim basis until such time as the vacancy is filled by the quorum court as provided by this chapter or the disability of the sheriff is abated.

(B) Persons so designated by the sheriff shall be listed in succession and may be identified by title or position.

(C) The death or disability of a person in the line of succession shall result in disqualification of the person and appointment of the next successive person.

(D) The sheriff shall affix his or her signature to the policy statement and to the resolution of the quorum court to signify that the line of succession for the office of sheriff is in accordance with his or her authority.

(3)(A) The county judge and the sheriff shall file the executive order and the resolution with policy statement under subdivisions (c)(1) and (2) of this section with the county clerk, and a file-marked copy shall be provided to the Director of the Arkansas Department of Emergency Management no later than sixty (60) days from the beginning of the elected term of office.

(B) Members of the quorum court are not eligible to fill the vacancy in the office of county judge or sheriff under this section.

History. Acts 1977, No. 742, §§ 51, 52; 1979, No. 413, § 10; 1985, No. 682, §§ 1-3; A.S.A. 1947, §§ 17-3611, 17-3612; Acts 2009, No. 229, § 1; 2013, No. 378, § 1.

Amendments. The 2009 amendment added (c).

The 2013 amendment redesignated former (a)(2)(C) as (a)(2)(C)(i); added (a)(2)(C)(ii), and made stylistic changes.

14-14-1314. Constable training requirements — Uniform requirements.

(a)(1)(A) For a constable to have access to information from the Arkansas Crime Information Center:

(i) He or she shall satisfactorily complete the constable certification course provided by the Arkansas Commission on Law Enforcement Standards and Training.

(ii) Each year after completing the certification course required under subdivision (a)(1)(A)(i) of this section, he or she shall satisfactorily complete sixteen (16) hours of training provided by the Arkansas Commission on Law Enforcement Standards and Training.

(B) For a constable to carry a firearm:

(i) He or she shall attend sixteen (16) hours of firearms training; and

(ii) Each year after completing the training required under subdivision (a)(1)(B)(i) of this section, he or she shall satisfy the firearm qualification standards for a law enforcement official.

(2) A constable holding office on July 31, 2007, is exempt from the requirements of subdivision (a)(1) of this section if the constable has completed:

(A) The Part-time Law Enforcement Officer II training or higher level training course; and

(B) Mandatory racial profiling courses.

(b)(1) In the performance of his or her official duties, a constable shall wear a uniform consisting of:

(A) A white shirt on formal occasions at any time;

(B)(i) A constable identification patch on the left shoulder of the shirt and an American flag on the right shoulder.

(ii) The top of each patch shall be one inch (1″) down from the shoulder seam of the shirt;

(C) A name tag above the right pocket flap of the shirt;

(D) A six-point star containing the words "Arkansas Constable" on the left side of the shirt; and

(E) The following pants:

(i) Tan pants; or

(ii) Blue or black pants on formal occasions.

(2) If a constable is engaged in search or rescue activities, he or she shall wear a uniform consisting of:

(A) A black shirt; and

(B) Black pants.

(c) In the performance of his or her official duties, a constable shall drive a motor vehicle that is:

(1) Equipped with emergency equipment; and

(2) Clearly marked with a six-point star and the words "Arkansas Constable".

(d) The county may pay reasonable expenses associated with the requirements of this section.

History. Acts 2007, No. 841, § 2; 2011, No. 561, § 4; 2013, No. 1113, § 1.

Amendments. The 2011 amendment added (d).

The 2013 amendment deleted (b)(1)(A) through (b)(1)(A)(ii), (b)(1)(F) and (b)(2)(C) and redesignated the remaining subdivisions accordingly; redesignated former (b)(1)(A)(iii) as present (b)(1)(A); deleted "shall be" following "'Arkansas Constable'" in (b)(1)(D); and substituted "Equipped" for "Fully equipped" in (c)(1).

Cross References. Access to criminal history records, § 12-12-211.

Training for constables, § 12-9-115.

CHAPTER 15

OFFICERS

SUBCHAPTER.

Subchapter 2 — County Assessors

SECTION.

Effective Dates. Acts 2001, No. 1275, § 4: Apr. 4, 2001. Emergency clause provided: "It is found and determined by the General Assembly that property tax reimbursements to the counties will most likely begin in April and it is critical to the counties to account for costs borne by the certification of amounts of real property tax reduction to the Chief Fiscal Officer of the State as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-15-203. Pro rata contribution to salaries.

(a)(1) It is declared to be the policy of the state and local governments of Arkansas that from and after July 1, 1947, the state and every county, municipality, school district, and other taxing unit, excepting only special improvement districts to which the county assessor is not required by law to render service, receiving ad valorem or other tax funds collected by county collectors or certified to the Chief Fiscal Officer of the State pursuant to § 26-26-310 by county collectors shall contribute funds for the payment of the salaries, and the necessary

expenses incurred in the performance of their official duties, of the county assessors and their deputies.

(2)(A) At least twenty (20) days prior to the quorum court meeting at which the annual budget is adopted, the county assessor shall provide to each taxing unit a copy of the proposed budget of the county assessor for the next year.

(B) At least ten (10) days prior to any meeting of the quorum court at which an amendment adding an appropriation exceeding one percent (1%) of the original budget amount to the budget of the county assessor shall be presented, the county assessor shall provide to each taxing unit a copy of the proposed amendment.

(C) Copies of the budget and any amendments shall be provided by giving copies to the following:

(i) For the county, to the county clerk;

(ii) For a municipality, to the clerk or recorder; and

(iii) For a school district, to the superintendent.

(b)(1) For the purpose of carrying out this policy, the amount to be contributed annually by each of the taxing units shall be in the proportion that the total of such taxes collected or certified to the state pursuant to § 26-26-310 for the benefit of each taxing unit bears to the total of taxes collected for the benefit of all taxing units.

(2) The pro rata contribution of the salaries and expenses of any taxing unit that receives taxes collected or certified to the state pursuant to § 26-26-310 for the purpose of meeting debt service requirements of its issued and outstanding bonds shall be charged to and paid out of the taxing unit's general fund, and not to, or out of, any special fund it may maintain for this purpose, nor in such other manner as will diminish the amount necessary to meet such debt service requirements.

History. Acts 1947, No. 111, § 1; A.S.A. 1947, § 12-806; Acts 1991, No. 484, § 1; 2001, No. 1275, § 2.

14-15-205. Professional development recognition payments.

(a)(1) County assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem taxes shall become eligible for professional development recognition payments upon completion of the requirements enumerated in subsection (b) of this section for each year the employee is employed full time in the county assessor's office.

(2) Such payments shall be made from appropriated funds pro rata to eligible county assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem taxes up to the designated amounts from such funds as may be specifically appropriated for such payments.

(b)(1)(A)(i) County assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem

taxes designated as senior appraisers, level 4, by the Assessment Coordination Department shall receive annually, to the extent moneys are available, a professional development recognition payment in an amount not to exceed five hundred dollars ($500).

(ii) County assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem taxes designated as senior appraiser managers, level 4, by the department shall receive annually, to the extent moneys are available, a professional development recognition payment in an amount not to exceed seven hundred fifty dollars ($750).

(B) A senior appraiser, level 4, with four (4) years of appraisal experience may serve as an appraisal or reappraisal manager in a county if the appraiser complies with the standards established by the department.

(2) To the extent moneys are available, county assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem taxes designated as certified residential appraisers by the Arkansas Appraiser Licensing and Certification Board or as cadastral mapping specialists by the International Association of Assessing Officers shall annually receive a professional development recognition payment in an amount not to exceed one thousand dollars ($1,000).

(3) To the extent moneys are available, county assessors, full-time employees of county assessors' offices, and state employees who actively work with ad valorem taxes designated as certified general appraisers by the Arkansas Appraiser Licensing and Certification Board or as certified assessment evaluators by the International Association of Assessing Officers shall annually receive a professional development recognition payment in an amount not to exceed two thousand dollars ($2,000).

(c)(1) A county assessor, full-time employee, or state employee who actively works with ad valorem taxes is eligible for only one (1) professional development recognition payment annually.

(2) To the extent moneys are available, if any county assessor, full-time employee, or state employee who actively works with ad valorem taxes is eligible for professional development recognition payments in two (2) or more categories enumerated in subsection (b) of this section, he or she shall annually receive the professional development recognition payment in the amount of the higher recognition payment category.

(d)(1) In order to be eligible to receive a professional development recognition payment, the county assessor, full-time employee, or state employee who actively works with ad valorem taxes shall present proof of the appropriate agency's designation and proof that the appropriate agency's designation has been maintained for a minimum of twelve (12) months before the June 30 for which the payment is being requested to the Director of the Assessment Coordination Department, who shall authorize payment to the county assessor or employee no later than July 15.

(2) In order to receive professional development recognition payments in subsequent years, the county assessor or employee shall annually present proof to the director by June 1 that he or she has fulfilled the requirements to maintain a professional designation and that the employee has been a full-time county assessor or assessment employee for the previous year and continues to be a full-time assessor or employee.

(e) Professional development recognition payments authorized by this section shall be subject to withholding of all applicable state and federal taxes but shall not be included by retirement systems in determining benefits.

History. Acts 1995, No. 903, §§ 1, 2; 2001, No. 1393, § 1; 2013, No. 707, § 1.

A.C.R.C. Notes. The Assessment Coordination Division of the Arkansas Public Service Commission was transferred by a Type 2 transfer as provided in § 25-2-105 to the Assessment Coordination Department pursuant to § 25-28-102(a).

Amendments. The 2013 amendment inserted "and state employees who actively work with ad valorem taxes" in (a)(1) and (a)(2); inserted "full-time" in (a)(1), (b)(1)(A)(i), (iii), (b)(2) through (3), (c)(1), (2) and (d)(1); inserted "of county assessors' offices, and state employees who actively work with ad valorem taxes" in (b)(1)(A)(i), (ii), (b)(1)(B)(2) and (B)(3); inserted "or state employee who actively works with ad valorem taxes" in (c)(1), (2) and (d)(1); and added "and proof that the appropriate agency's designation has been maintained for a minimum of twelve (12) months before the June 30 for which the payment is being requested" in (d)(1).

Subchapter 3 — County Coroners

14-15-302. Coroner's investigation.

(a) A coroner's investigation does not include criminal investigation responsibilities. However, the coroner shall assist any law enforcement agency or the State Crime Laboratory upon request.

(b)(1) A coroner shall be given access to all death scenes in order to perform the duties set forth in this subchapter.

(2) A coroner may issue subpoenas as necessary to secure pertinent medical or other records and testimony relevant to the determination of the cause and manner of death.

(c)(1) A coroner or his or her deputy who has received instruction and has been deemed qualified by the State Crime Laboratory to take and handle toxicological samples from dead human bodies may do so for the purpose of determining the presence of chemical agents that may have contributed to the cause of death.

(2) Toxicological samples may be taken from dead human bodies in those cases in which the coroner is required by law to conduct an investigation.

(d)(1) A person, institution, or office in this state that makes available information or material under this section is not criminally liable.

(2) A person, institution, or office in this state is not liable in tort for compliance with this section.

(e)(1) A preliminary written report of the coroner's investigation shall be completed within five (5) working days and shall include a pronouncement of death. If indicated, a subsequent report shall be completed.

(2) If the death occurred without medical attendance or was the result of a homicide, an accident, or a suicide, then the preliminary written report shall include without limitation the following information regarding the decedent:

(A) Name;

(B) Date of birth or approximate age if unknown;

(C) Sex;

(D) Social security number if available;

(E) Home address;

(F) Location where the body was discovered;

(G) Time of death or approximate time if unknown;

(H) Condition of the body, including any recent trauma, body temperature, and position;

(I) Any prescribed medications;

(J) Pertinent medical history;

(K) Cause and manner of death;

(L) Photographs or information where photographs may be accessed in cases of non-natural deaths and deaths of persons under eighteen (18) years of age;

(M) List of all other governmental entities investigating the death; and

(N) Disposition of the body.

(3) Nothing in this section shall limit or otherwise restrict the exercise of professional judgment or discretion by a coroner or prohibit access to information or testimony necessary to complete a coroner's investigation.

History. Acts 1993, No. 1301, § 1; 1999, No. 812, § 1; 2007, No. 194, § 2; 2009, No. 1288, § 1.

Amendments. The 2009 amendment inserted "dead human" preceding "bodies" in (c)(2); subdivided (d); inserted "and shall include a pronouncement of death" in (e)(1); inserted "preliminary written" in the introductory language of (e)(2); substituted "date of birth" for "age" at the beginning of (e)(2)(E); and made minor stylistic changes.

Cross References. Coroner may collect and secure decedent's prescription medication, § 14-15-306.

Notification of certain deaths, § 12-12-315.

14-15-306. Disposition of prescription medication.

(a) A coroner may collect and secure any prescription medication of the decedent to ensure that the medication does not come into the possession of a person who might use the medication in an illegal or harmful manner.

(b) Collected medication shall be disposed of under circuit court order or shall be forwarded to the Department of Health within thirty (30) days for proper destruction under § 20-64-214.

(c) This section shall not apply to any prescription medication in the custody or possession of an institutional health care provider or attending hospice nurse that is subject to other laws and regulations governing the destruction or disposition of patient or resident medication.

History. Acts 2007, No. 194, § 3.
Cross References. Notification of certain deaths, § 12-12-315.

14-15-307. Coroner's Advisory Task Force — Creation — Powers and duties.

(a)(1) The Coroner's Advisory Task Force is created and shall consist of thirteen (13) members.

(2) The Governor shall appoint to the task force:

(A)(i) Six (6) members who are current county coroners, selected in a manner so that each of the four (4) congressional districts are represented by at least one (1) coroner.

(ii) Of the persons appointed under subdivision (a)(2)(A)(i) of this section:

(a) One (1) member shall be from a Class 1 county or a Class 2 county as defined by § 14-14-1204(b);

(b) One (1) member shall be from a Class 3 county or a Class 4 county as defined by § 14-14-1204(b);

(c) One (1) member shall be from a Class 5 county or a Class 6 county as defined by § 14-14-1204(b); and

(d) One (1) member shall be from a Class 7 county as defined by § 14-14-1204(b);

(B) One (1) member who is a representative of the funeral home industry;

(C) One (1) member who is a licensed attorney in Arkansas;

(D) One (1) member who is a licensed physician in Arkansas;

(E) The State Medical Examiner or his or her designee;

(F) One (1) member to represent the Arkansas Sheriffs' Association;

(G) The Director of the Department of Health or his or her designee; and

(H) One (1) member who is a consumer representative.

(3) If a vacancy occurs, the Governor shall appoint a replacement who represents the same constituency as the vacating member.

(4) Members shall elect a chair who shall serve for one (1) year.

(5) A majority of the members being present shall constitute a quorum for the transaction of business.

(6) The task force shall meet as necessary to further the intent and purpose of this subchapter.

(7) The Department of Health shall provide office space and staff for the task force if funds are available.

(8) Members shall serve without pay but may receive expense reimbursement under § 25-16-902 if funds are available.

(b) The task force shall develop standards and policy recommendations on certain issues, including without limitation the following:

(1) Treatment of a body during the course of a death investigation;

(2) The proper manner of choosing who is designated to remove a body from a death scene during the course of a death investigation and at the conclusion of a death investigation;

(3) The manner and timeliness of notification of next of kin of the deceased;

(4) Other standards and policy recommendations to ensure that all functions of the coroner are performed in a professional and ethical manner; and

(5) Recommendations to the 88th General Assembly for improvement of laws regarding the duties of a coroner, including without limitation proper levels of compensation for the increasing responsibilities and level of training needed to conduct a proper, thorough, and up-to-date death investigation.

(c) The task force shall be abolished on April 30, 2011.

History. Acts 2009, No. 1275, § 1.

14-15-308. Training and instruction.

(a) The Arkansas Commission on Law Enforcement Standards and Training, in coordination with the Department of Health, shall establish a training curriculum for medicolegal death investigators, coroners, and deputy coroners in Arkansas that consists of no less than sixteen (16) hours nor more than forty (40) hours of instruction, including without limitation courses on:

(1) Medicolegal death investigation leading to certification as a medicolegal death investigator;

(2) Scene investigation;

(3) Body recovery;

(4) Safety;

(5) Statutes and rules;

(6) Documentation and reporting;

(7) Communication and interviewing; and

(8) Proper completion of a death certificate and assignment of cause of death.

(b) The commission shall:

(1) Issue a certificate of satisfactory participation and completion to a coroner, deputy coroner, or medicolegal death investigator who completes the instructional program required under subsection (a) of this section; and

(2)(A) Administer the funds for the payment and reimbursement for materials, speakers, mileage, lodging, meals, the cost of the certificate, and training equipment that are in addition to compensation allowed under §§ 14-14-1203, 14-14-1204, and 14-14-1206.

(B) The commission may receive funding for coroner training through grants-in-aid, donations, and the County Coroners Continuing Education Fund.

(c) The commission shall provide death investigation training:

(1) Free of charge to a law enforcement officer, a state death investigator, and an employee of the State Crime Laboratory; and

(2) For a fee under a memorandum of understanding between the commission and the Coroner's Association to coroners and deputy coroners.

History. Acts 2013, No. 551, § 5.

14-15-309. Mass fatality resource inventory and mutual aid agreement.

(a) As used in this section:

(1) "Fixed assets" means items that are permanently located but can be made available for use, including without limitation:

(A) Office space;

(B) Body refrigeration units;

(C) Personnel rehabilitation areas; and

(D) Equipment storage facilities;

(2) "Mobile assets" means items that can be transported to an affected area, including without limitation:

(A) Personal protective equipment such as masks, tyvek suits, gloves, boots, environmental protection, and hazards protection;

(B) Investigative equipment such as cameras, measuring devices, collection bags, and labeling devices;

(C) Body recovery equipment such as sheets, body bags, ropes, boards, and stretchers;

(D) Administrative equipment for the purposes of data recording, financial management, and records preservation; and

(E) Vehicular equipment such as cars, trucks, vans, trailers, and boats; and

(3) "Personnel assets" means:

(A) Coroners, deputy coroners, and medicolegal death investigators; and

(B) Other individuals or entities that possess specialized skills necessary for the comprehensive investigation of deaths in a mass fatality incident.

(b)(1) The Department of Health may enter into a mass fatality resource inventory and mutual aid agreement among coroners in this state.

(2) A mass fatality resource inventory and mutual aid agreement under this section is effective when signed by the county judge in a county in which a coroner enters into an agreement under subdivision (b)(1) of this section.

(3) A mass fatality resource inventory and mutual aid agreement under this section may provide for the sharing of fixed assets, mobile assets, and personnel assets.

(c) The signatures of the county judge and the coroner are necessary for a county to pledge its deputies, equipment, and resources to the mass fatality mutual aid agreement.

(d) Only a coroner, deputy coroner, or medicolegal death investigator who receives documentation reflecting satisfactory participation and completion from the commission and is in good standing under this section may be allocated for assignment and duty in the mass fatality resource inventory and mutual aid agreement.

(e) The Department of Health shall maintain records of coroners, deputy coroners, and medicolegal death investigators who have received training and certificates of course completion under this section from the Arkansas Commission on Law Enforcement Standards and Training.

History. Acts 2013, No. 551, § 5.

Subchapter 4 — Recorders

A.C.R.C. Notes. Acts 2013, No. 999, § 6: Apr. 8, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that many instruments affecting title to real estate are being found to not provide constructive notice because of defects in the certificates of acknowledgment; and that this act is immediately necessary to protect property rights and interests. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-15-401. Duties generally.

(a)(1) There shall be established in each county in this state an office to be styled the county recorder's office, which shall be kept at the seat of justice of each county.

(2)(A) Unless otherwise provided by law, the county recorder is the circuit clerk of the county.

(B) In a county that under law has assigned the duties of the county recorder to the county clerk, all Arkansas Code references to circuit clerk that concern recording functions shall mean the county clerk.

(b) The county recorder:

(1) Shall duly attend to the duties of the county recorder's office;

(2) Shall provide and keep in the county recorder's office well-bound books in which the county recorder shall record in a fair and legible hand all instruments of writing authorized or required to be recorded in the manner provided; and

(3)(A) May implement electronic filing and searching provisions and procedures under the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq.

(B) Unless a county recorder has implemented the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq., the transmission of an electronic document to the county recorder has no legal effect.

(C) A person that seeks to record an electronic document is solely responsible for determining if a county recorder has implemented the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq.

History. Rev. Stat., ch. 124, § 1; C. & M. Dig., §§ 8616, 8617; Pope's Dig., §§ 11208, 11209; A.S.A. 1947, § 12-1001; Acts 2007, No. 734, § 2; 2009, No. 160, § 1.

Amendments. The 2009 amendment added (a)(2) and redesignated the remaining text accordingly.

14-15-402. Instruments to be recorded.

(a) It shall be the duty of each recorder to record in the books provided for his or her office all deeds, mortgages, conveyances, deeds of trust, bonds, covenants, defeasances, affidavits, powers of attorney, assignments, contracts, agreements, leases, or other instruments of writing of or writing concerning any lands and tenements or goods and chattels, which shall be proved or acknowledged according to law, that are authorized to be recorded in his or her office.

(b)(1) To be accepted by the county recorder for recording purposes, all documents shall:

(A) Be on eight and one-half by eleven inch (8½″x11″) paper;

(B) Have a two and one-half inch (2.5″) margin at the right top of the first page, one-half inch (0.5″) margin on the sides and bottoms of all pages, and a two and one-half inch (2.5″) margin at the bottom of the last page;

(C) Have an area reserved on the top right of the first page for the file mark of the recorder;

(D) Contain the following information:

(i) The title of the document; and

(ii) The name of the grantor and grantee, when applicable;

(E) Be acknowledged or otherwise executed as permitted by § 16-47-107 or § 18-12-208; and

(F) Be legible.

(2)(A) The county recorder shall have the discretion to waive the requirements of subdivision (b)(1) of this section for:

(i) Good cause; and

(ii) Any document that complies with the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq.

(B) All documents and instruments executed before January 1, 2004, shall be exempt from the requirements of subdivision (b)(1) of this section.

(C) All surveys and plats shall be exempt from the requirements of subdivision (b)(1) of this section.

(3) A county recorder shall not refuse to record a document that has been executed in a manner permitted by § 16-47-107 or § 18-12-208.

History. Rev. Stat., ch. 124, §§ 8, 9; C. & M. Dig., §§ 8624, 8625; Pope's Dig., §§ 11216, 11217; A.S.A. 1947, §§ 16-101, 16-102; Acts 2003, No. 757, § 1; 2005, No. 1428, § 1; 2007, No. 734, § 3; 2013, No. 999, § 5.

Amendments. The 2013 amendment substituted "or otherwise executed as permitted by § 16-47-107 or § 18-12-208" for "in accordance with § 16-47-207" in (b)(1)(E); added (b)(3), and made stylistic changes.

14-15-404. Effect of recording instruments affecting title to property.

(a)(1) Every deed, bond, or instrument of writing affecting the title, in law or equity, to any real or personal property within this state which is or may be required by law to be acknowledged or proved and recorded shall be constructive notice to all persons from the time the instrument is filed for record in the office of the county recorder of the proper county.

(2)(A) A document filed under the Uniform Real Property Electronic Recording Act, § 14-2-301 et seq., is filed of record within the meaning of this subsection (a) if recorded under § 14-15-407 during the county recorder's regular business hours.

(B) A document received after the county recorder's regular business hours shall be recorded in the order received.

(b) No deed, bond, or instrument of writing for the conveyance of any real estate, or by which the title thereto may be affected in law or equity, made or executed after December 21, 1846, shall be good or valid against a subsequent purchaser of the real estate for a valuable consideration without actual notice thereof or against any creditor of the person executing such an instrument obtaining a judgment or decree which by law may be a lien upon the real estate unless the deed, bond, or instrument, duly executed and acknowledged or proved as

required by law, is filed for record in the office of the clerk and ex officio recorder of the county where the real estate is situated.

History. Acts 1846, §§ 1, 2, p. 77; 1846, §§ 1, 2, p. 108; C. & M. Dig., §§ 1536, 1537; Pope's Dig., §§ 1846, 1847; A.S.A. 1947, §§ 16-114, 16-115; Acts 2007, No. 734, § 4.

RESEARCH REFERENCES

Ark. L. Notes. Laurence and Circo, An Exchange of Collegial Memoranda on the Attachment of a Judgment Lien to Real Property Subject to a Buy-Sell Agreement, 2006 Arkansas L. Notes 93.

U. Ark. Little Rock L. Rev. Annual Survey of Caselaw, Property Law, 25 U. Ark. Little Rock L. Rev. 1025.

CASE NOTES

Analysis

Actual Notice.
Constructive Notice.
Deed of Trust.
Fraud.
Subsequent Purchasers.

Actual Notice.

Judgment was properly awarded to appellee in its quiet title action as appellee's chain of title was superior; evidence showed that appellants' predecessors had actual knowledge of the conveyance of the disputed strip of land to appellee's predecessor, and thus the deed of appellee's predecessor, although recorded later, took priority. Rice v. Welch Motor Co., 95 Ark. App. 100, 234 S.W.3d 327 (2006).

Constructive Notice.

Facts in bankruptcy trustee's preferential transfer action against two creditor banks demonstrated clearly that the bank's mortgages were granted by and recorded against entities which were not record owners of the property mortgaged; thus, absent any other argument, since the banks' mortgages were not properly recorded against the entities which possessed legal interests in the properties, those mortgages did not affect title to the properties and would not operate as constructive notice under § 18-40-102 and subsection (a) of this section. Rice v. First Ark. Valley Bank (In re May), 310 B.R. 405 (Bankr. E.D. Ark. 2004).

Although the farm argued that, even if the notice was constitutionally insufficient, the railroad's claim to the mineral rights was barred by the one-year limitations period in § 26-37-203, the court found that: (1) this section, which provided that subsequent purchasers of real estate were put on constructive notice of a properly recorded deed, this section did not govern the running of the statute of limitations as to the railroad because it was not a subsequent purchaser of the mineral rights; and (2) imposition of § 26-37-203 presupposed adequate notice to the landowner, and due process required notice reasonably calculated under all of the circumstances to inform the property owner of the taking so that he may object, and if that notice was lacking, the passage of one year from the taking, without more, would not satisfy the requirements of due process. Linn Farms & Timber Ltd. P'ship v. Union Pac. R.R., — F. Supp. 2d —, 2010 U.S. Dist. LEXIS 51714 (E.D. Ark. May 25, 2010).

Recorded affidavit of lost mortgage, with a copy of the mortgage appended, was not constructive notice to a bankruptcy trustee of the mortgagee's interest in the subject property because the affidavit was not an "instrument of writing affecting title," under subdivision (a)(1) of this section, as (1) the affidavit did not affect title, since the affidavit's purpose was to give notice that there was a mortgage executed which was lost, and (2) an instrument affecting real estate had to be acknowledged before being admitted to record, under § 16-47-101, but the grantor did not acknowledge the affidavit, nor was the grantor required to, as the affidavit was witnessed and notarized

only for the purpose of attesting to the signature of the lender's employee who stated the mortgage was lost and the bank claimed an interest in the property, so the trustee, as a bona fide purchaser for value, under 11 U.S.C.S. § 544, could avoid the mortgagee's lien. Wetzel v. Mortgage Elec. Registration Sys., 2010 Ark. 242, — S.W.3d — (2010).

Transaction between the city and debtor appeared without doubt a deed absolute on its face intended by the parties to be a mortgage, and was treated as such under Arkansas law. Under the provisions of this section, the Lease and Agreement between the City and debtor which was duly recorded was "an instrument of writing affecting title, in law or equity, to any real or personal property" and constituted notice of the writing and was binding on the Trustee; therefore, the Trustee had constructive notice of the deed from debtor to the city and the Lease and Agreement containing the provision to repurchase the property back for a nominal sum because the documents were duly recorded in the records of White County, Arkansas. Ark. Dev. Fin. Auth. v. Rice (In re Yarnell's Ice Cream Co.), 486 B.R. 918 (Bankr. E.D. Ark. 2013).

Deed of Trust.

Company was not a necessary party to the foreclosure action, because the lender on the deed of trust was the beneficiary and it received the payments on the debt, and the company held no authority to act as an agent and held no property interest in the mortgaged land. Mortgage Elec. Registration Sys. v. Southwest Homes of Ark., 2009 Ark. 152, 301 S.W.3d 1 (2009), rehearing denied, Mortgage Elec. Registration Sys. v. Southwest Homes of Ark., Inc., — Ark. —, — S.W.3d —, 2009 Ark. LEXIS 458 (Apr. 23, 2009).

Fraud.

Although Debtor deeded 600 acres of land to his son for $10 in 1986, for purposes of the Arkansas fraudulent transfer statute, the transfer and the effect upon the debtor and his insolvency status must be analyzed at the time the deed was recorded in 1995. Williams v. Marlar, 246 B.R. 606 (Bankr. W.D. Ark. 2000), aff'd, Williams v. Marlar (In re Marlar), 252 B.R. 743 (B.A.P. 8th Cir. 2000).

Subsequent Purchasers.

Trial court properly quieted title in the subsequent purchasers under the escrow contracts, which were also contracts of sale, because the subsequent purchasers' interests in the property was filed of record before the mortgage holder's later foreclosure action against the original purchaser, who executed a first mortgage which was released, then executed a subsequent mortgage, and the subsequent purchasers were thereby protected by this section. Hatchett v. Terry, 87 Ark. App. 276, 190 S.W.3d 302 (2004).

14-15-414. Indexes to record books.

(a)(1) Each recorder shall provide and keep in the recorder's office a well-bound book and make and enter in alphabetical order in the book an index to all books of record wherein deeds, mortgages, or other instruments in writing concerning lands and tenements are recorded, distinguishing the books and pages in which every deed or writing is recorded.

(2) The index shall contain:

(A) The names of the several grantors and grantees in alphabetical order;

(B) In case the deed is made by a sheriff, the name of the sheriff and the defendant in the execution;

(C) If by executors or administrators, their names and the names of their testator or intestate;

(D) If by attorney, the name of the attorney and his or her constituent; and

(E) If by a commissioner, the name of the commissioner and the person whose estate is conveyed.

(3) Each recorder shall make a reference in the several indexes of all deeds and conveyances that may be recorded, so as to afford, at all times, an easy reference to the records.

(4)(A) If an assignment or a satisfaction or release of a mortgage, deed of trust, or other lien is presented for recording, the assignment, satisfaction, or release shall state:

(i) The date the mortgage, deed of trust, or other lien was recorded; and

(ii) The instrument number, book and page numbers, or other recording reference at which the mortgage, deed of trust, or other lien appears of record.

(B) The recorder shall note in the index of the book or record in which the assignment, satisfaction, or release is recorded:

(i) The book and page numbers, instrument number, or other recording reference for the mortgage, deed of trust, or other lien assigned, satisfied, or released; and

(ii) The name of the mortgagor or grantor under which the mortgage, deed of trust, or other lien is indexed.

(b) Each recorder shall, in a similar manner, make, keep, and preserve:

(1) A full and perfect alphabetical index to all books of record in his or her office in which all deeds and instruments of writing in relation to personal property, marriage contracts, certificates of marriage, and all other papers are recorded; and

(2) A similar index of all the books of record in which commissions and official bonds are recorded, the name of the officers appointed, the obligors in any bond recorded, and a reference to the book and page where they are recorded.

History. Rev. Stat., ch. 124, §§ 13-16; C. & M. Dig., §§ 8631-8634; Pope's Dig., §§ 11223-11226; A.S.A. 1947, §§ 16-107 — 16-110; Acts 2003, No. 1173, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Local Government, Information Regarding Assignment of Liens, 26 U. Ark. Little Rock. L. Rev. 434.

Subchapter 5 — Sheriffs — Generally

14-15-503. Powers of deputies.

CASE NOTES

Appointment of Deputies.

Following a controlled-drug buy, defendant was arrested by Monticello, Arkansas, officers outside county limits; cocaine, the buy money, and drug paraphernalia were retrieved by the officers. Defendant was not entitled to suppress the evidence even though the officers were outside their

jurisdiction; the officers carried commission cards which appointed them to act as deputies in Drew County, Arkansas, under § 14-15-503. Trotter v. State, 99 Ark. App. 37, 256 S.W.3d 521 (2007).

Subchapter 7 — County Surveyors

SECTION.
14-15-701. Qualifications.

14-15-701. Qualifications.

No person shall be eligible to seek or hold the office of county surveyor unless the person is registered as a professional surveyor by the State Board of Licensure for Professional Engineers and Professional Surveyors.

History. Acts 1963, No. 193, § 1; 1985, No. 549, § 1; A.S.A. 1947, § 12-1222; Acts 2005, No. 1178, § 2.

Cross References. Surveyors, § 17-48-101 et seq.

Subchapter 8 — County Treasurers

SECTION.
14-15-804. Appointment of a deputy treasurer.

SECTION.
14-15-811. Continuing education — Board and fund.

Effective Dates. Acts 1999, No. 342, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the current contribution level for continuing education for county officials is insufficient and when the contribution level is raised, the appropriation for this purpose is insufficient. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2001, No. 348, § 10: Feb. 21, 2001. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2001 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2001 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

14-15-804. Appointment of a deputy treasurer.

(a) Appointment of a deputy treasurer shall be:
(1) In writing;
(2) Signed by the county treasurer; and
(3) Recorded in the county recorder's office.

(b) A deputy treasurer shall possess powers as authorized by the county treasurer.

History. Acts 1883, No. 42, §§ 2-4, p. 65; C. & M. Dig., §§ 1911-1913; Pope's Dig., §§ 2428-2430; A.S.A. 1947, §§ 12-1307 — 12-1309; Acts 2007, No. 122, § 1.

14-15-811. Continuing education — Board and fund.

(a) There is created the County Treasurer's Continuing Education Board, which shall be composed of the following six (6) members:

(1) Four (4) members of the Arkansas County Treasurers' Association, designated by the Arkansas County Treasurers' Association;

(2) One (1) member designated by the Association of Arkansas Counties; and

(3) The Auditor of State or a person designated by the Auditor of State.

(b)(1) It shall be the responsibility of the County Treasurer's Continuing Education Board to establish a continuing education program for county treasurers of the various counties in the state. This program shall be designed to better equip persons elected to serve as county treasurers to carry out their official responsibilities in an effective and efficient manner. The program shall include requirements and procedures for an effective certification program for county treasurers.

(2) It shall also be the responsibility of the board to disburse any funds made available to it from the County Treasurers' Continuing Education Fund to establish and maintain a continuing education program and a certification program for county treasurers.

(c)(1) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the County Treasurers' Continuing Education Fund.

(2)(A) The quorum court of each county shall annually appropriate and pay into the fund in the State Treasury the sum of seven hundred dollars ($700) from fees of the office of county treasurer.

(B) If any quorum court shall fail or refuse to appropriate and pay over the funds to the County Treasurers' Continuing Education Fund in the State Treasury, the Treasurer of State shall withhold funds from the county aid due to the county and shall credit the funds to the County Treasurers' Continuing Education Fund.

(d) The funds in the County Treasurers' Continuing Education Fund shall be used exclusively for the establishment and operation of a continuing education program for county treasurers and for paying the meals, lodging, registration fees, and mileage at the rate prescribed in state travel regulations of county treasurers who attend the continuing education program.

History. Acts 1987, No. 944, §§ 1-3; 1989 (1st Ex. Sess.), No. 178, § 2; 1999, No. 342, § 1; 2001, No. 348, § 4; 2007, No. 246, § 1; 2013, No. 551, § 3.

Publisher's Notes. For amount of appropriation for continuing education for county Treasurers of the Auditor of State - Continuing Education see Act 1999, No. 342, § 4.

Act 1999, No. 342, §§ 7 and 8, provided:

"Disbursement of funds authorized by this act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this state, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

"It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Amendments. The 2013 amendment substituted "seven hundred dollars ($700)" for "six hundred dollars ($600)" in (c)(2)(A)

Cross References. Continuing education — Board and fund, § 14-15-811.

County Treasurers' Continuing Education Fund, § 19-5-947.

Publication Development and Resale Revolving Fund, § 19-5-1001.

Subchapter 10 — County Collectors

SECTION.

Effective Dates. Acts 1999, No. 342, § 12: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the current contribution level for continuing education for county officials is insufficient and when the contribution level is raised, the appropriation for this purpose is insufficient. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2001, No. 348, § 10: Feb. 21, 2001. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 2001 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2001 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2001."

14-15-1001. Continuing education — Board and fund.

(a) There is hereby created the County Collector's Continuing Education Board, which shall be composed of the following six (6) members:

(1) Four (4) members of the County Collector's Association, designated by the County Collector's Association;

(2) One (1) member designated by the Association of Arkansas Counties; and

(3) The Auditor of State or a person designated by the Auditor of State.

(b)(1) It shall be the responsibility of the County Collector's Continuing Education Board to establish a continuing education program for county collectors and sheriff/collectors of the various counties in the state. This program shall be designed to better equip persons elected to serve as county collectors and as sheriff/collectors to carry out their official responsibilities in an effective and efficient manner. The program shall include requirements and procedures for an effective certification program for county collectors.

(2) It shall also be the responsibility of the board to disburse any funds made available to it from the County Collector's Continuing Education Trust Fund to establish and maintain a continuing education program and a certification program for county collectors.

(c)(1)(A) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State the County Collectors' Continuing Education Trust Fund.

(B) The quorum court of each county shall annually appropriate and pay into the fund in the State Treasury the sum of seven hundred dollars ($700) from fees of the office of county collector.

(C) If any quorum court shall fail or refuse to appropriate and pay over the funds to the County Collectors' Continuing Education Trust Fund in the State Treasury, the Treasurer of State shall withhold funds from the county aid due to the county and shall credit the funds to the County Collectors' Continuing Education Trust Fund.

(2) The trust fund shall consist of all moneys required to be paid in annually as set out herein, all interest earned from the investment of fund balances, and any remaining fund balances carried forward from year to year.

(d) The funds in the County Collectors' Continuing Education Trust Fund shall be used exclusively for the establishment and operation of a continuing education program for county collectors and sheriff/collectors and for paying the meals, lodging, registration fees, and mileage at the rate prescribed in state travel regulations of county collectors and sheriff/collectors who attend the continuing education programs.

History. Acts 1989, No. 673, §§ 1-3; 1999, No. 342, § 2; 2001, No. 348, § 5; 2007, No. 246, § 2; 2013, No. 551, § 4.

Publisher's Notes. For amount of appropriation for continuing education for county Collectors of the Auditor of State - Continuing Education see Act 1999, No. 342, § 5.

Act 1999, No. 342, §§ 7 and 8, provided: "Disbursement of funds authorized by this act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this state, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

"It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption."

Amendments. The 2013 amendment substituted "seven hundred dollars ($700)" for "six hundred dollars ($600)" in (c)(1)(B).

Cross References. Continuing education — Board and fund, § 14-15-811.

County Treasurers' Continuing Education Fund, § 19-5-947.

Publication Development and Resale Revolving Fund, § 19-5-1001.

CHAPTER 16

POWERS OF COUNTIES GENERALLY

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

14-16-101. Actions on behalf of counties.

When any county has any demand against any persons or corporations, suit thereon may be brought by the county judge.

History. Acts 1879, No. 16, § 3, p. 13; C. & M. Dig., § 2045; Pope's Dig., § 2596; A.S.A. 1947, § 17-302; Acts 2009, No. 678, § 1.

Amendments. The 2009 amendment substituted "by the county judge" for "in the name of the state for the use of the county" and deleted the last sentence, which read: "In all such actions, all costs and expenses not recovered from the defendant shall be paid by the county."

14-16-105. Sale of county property generally.

(a) The county court of each county shall have power and jurisdiction to sell and cause to be conveyed any real estate or personal property belonging to the county and to appropriate the proceeds of the sale for the use of the county by proceeding in the manner set forth in this section.

(b)(1) When the county judge of a county shall consider it advisable and to the best interest of the county to sell and convey any real or

personal property belonging to the county, he or she shall cause an order to be entered in the county court setting forth:

(A) A description of the property to be sold;

(B) The reason for the sale; and

(C) An order directing the county assessor to cause the property to be appraised at its fair market value and to certify his or her appraisal of the property to the county court within a time to be specified in the order.

(2) A certified copy of the order shall be delivered to the county assessor by the county clerk, and the county clerk shall certify the date of the delivery of the copy on the margin of the record where the order is recorded.

(3) An order and the procedures as used in this section shall not be required for any sale by the county of any materials separated, collected, recovered, or created by a recycling program authorized and operated by the county. However, the county judge shall maintain a record of the recyclable materials sold, whether they were sold at public or private sale, a description of the recyclables sold, the name of the purchaser, and the terms of the sale. All the proceeds of the sale shall be deposited with the county treasurer.

(4) An order and the procedures described in this section shall not be required for any conveyance by the county of a conservation easement as described in the Conservation Easement Act, § 15-20-401 et seq. However, this conveyance shall not be made unless authorized by a majority vote of the quorum court.

(5) If property is sold under § 14-16-106, the requirements of this section are not applicable.

(c)(1) Upon receipt of the certified copy of the order, the county assessor shall view the property described in the order and shall cause the property to be appraised at its fair market value.

(2) Within the time specified in the order, the assessor shall file with the county clerk his or her written certificate of appraisal of the property.

(d)(1) If the appraised value of the property described in the order is less than the sum of two thousand dollars ($2,000), the property may thereafter be sold and conveyed by the county judge, either at public or private sale, by sealed bids or Internet sale for not less than three-fourths (¾) of the appraised value as shown by the certificate of appraisal filed by the assessor.

(2)(A) If the property will be sold by Internet sale, the notice of sale shall be placed on the website of the Internet vendor for no less than eight (8) consecutive days before the date of sale and shall contain a description of the property to be sold and the time of the sale.

(B) An additional notice may be posted on a county-owned or county-affiliated website, trade website, or business website for no less than eight (8) consecutive days before the date of sale.

(3)(A) When the sale has been completed, the county court shall enter its order approving the sale.

(B) The order shall set forth:

(i) The description of the property sold;

(ii) The name of the purchaser;

(iii) The terms of the sale;

(iv) That the proceeds of the sale have been deposited with the county treasurer; and

(v) The funds to which the proceeds were credited by the county treasurer.

(e)(1)(A)(i) If the appraised value of the property to be sold exceeds the sum of two thousand dollars ($2,000), the county judge may sell the property to the highest and best bidder, upon sealed bids received by the judge or by Internet sale.

(ii) The sheriff, the treasurer, and the circuit clerk of the county in which the property is to be sold shall constitute a board of approval for the sales, and the judge shall be the ex officio chair of the board without a vote.

(B) The property, when it exceeds the appraised value of two thousand dollars ($2,000), shall not be sold for less than three-fourths (¾) of its appraised value as determined by the certificate of the assessor.

(2)(A) Notice of the sale shall be published for two (2) consecutive weekly insertions in some newspaper published and having a general circulation in the county.

(B) The notice shall specify:

(i) The description of the property to be sold;

(ii) The time and place for submitting written bids, including that the sale may be conducted on the Internet; and

(iii) The appraised value of the property to be sold.

(C) The notice shall be dated and signed by the judge.

(D) If the sale is conducted on the Internet, the notice shall be placed on the Internet under this section, and the invoice from the Internet vendor or publisher shall be accompanied by a statement from the Internet vendor or publisher that the sale was published and conducted on the Internet.

(3) The judge shall have the right to reject any bids received by him or her under the notice.

(4)(A) When the judge has accepted a bid for the property and if a majority of the board approves the sale, the judge may sell and convey the property to the highest bidder.

(B) When the sale has been approved and completed, the county court shall enter an order approving the sale, which shall set forth the details of the sale as provided in subdivision (d)(2)(B) of this section.

(f)(1)(A) Any sale or conveyance of real or personal property belonging to any county not made under the terms of this section shall be null and void.

(B) The county fixed asset listing shall be amended to reflect all sales or conveyances made by the county under this section.

(C)(i) Any taxpayer of the county may bring an action to cancel the sale and to recover possession of the property sold within two (2) years from the date a sale is consummated.

(ii) This action for the use and benefit of the county is to be taken in the circuit court of the county in which the sale is made or in any county where personal property so sold may be found.

(iii) In the event the property is recovered for the county in the action, the purchaser shall not be entitled to a refund of the consideration paid by him or her for the sale.

(2) The procedures for sale and conveyance of county property set forth in this section shall not apply in these instances:

(A) When personal property of the county is traded in on new or used equipment and credit approximating the fair market price of the personal property is given to the county toward the purchase price of new equipment;

(B) When the sale of the personal property of the county involves the sale by the county of any materials separated, collected, recovered, or created by a recycling program authorized and operated by the county;

(C) When the county is conveying an easement, including, but not limited to, easements granted upon county lands for water improvements, sewer improvements, gas lines, electric lines, phone lines, utilities, railways, public roads, highways, and conservation easements as described in § 15-20-401 et seq. for any of the purposes enumerated in § 15-20-401 et seq., as the same may be amended from time to time; or

(D) When the county is leasing county property, including, but not limited to, leasing county lands or property under §§ 14-16-108 — 14-16-110, or the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq.

(E) When a sale or disposal of property is conducted under another section of the Arkansas Code.

(g)(1) County hospitals constructed or maintained in whole or part by taxes approved by the voters shall not be sold unless the sale is approved by the majority of electors voting on the issue at a general or special election. This subsection is applicable to county hospitals constructed before and after July 20, 1987.

(2) An election shall not be required for the sale of a county hospital that has been vacant or not used as a county hospital for more than one hundred twenty (120) days.

History. Acts 1945, No. 193, §§ 1-6; 1963, No. 213, § 1; A.S.A. 1947, §§ 17-304 — 17-309; Acts 1987, No. 448, § 1; 1993, No. 732, § 1; 1997, No. 1107, §§ 1, 2; 2001, No. 1050, §§ 1, 2; 2005, No. 1240, § 1; 2009, No. 410, §§ 3–5; 2011, No. 614, § 3; 2011, No. 1014, § 1.

Amendments. The 2009 amendment substituted "two thousand dollars ($2,000)" for "one thousand dollars ($1,000)" in (d)(1); in (e), substituted "two thousand dollars ($2,000)" for "one thousand dollars ($1,000)" in (e)(1)(A)(i) and (e)(1)(B), inserted "including that the sale may be conducted on the Internet" in (e)(2)(B)(ii) and made a related change,

and inserted (e)(2)(D); and in (g), inserted (g)(2) and redesignated the remaining text accordingly.

The 2011 amendment by No. 614 inserted "or by Internet sale" in (e)(1)(A)(i); inserted "the notice shall be placed on the Internet under this section, and" in (e)(2)(D); redesignated former (e)(4)(A) and (e)(4)(B)(i) as (e)(4)(A); deleted "he or she, as chair of the approval board, shall immediately call a meeting of the board, and the proposals to sell at the acceptable bid shall be submitted to the board for its approval" following "bid for the property" in (e)(4)(A); redesignated former (e)(4)(B)(ii) as (e)(4)(B); added (f)(1)(B) and redesignated former (f)(1)(B) as (f)(1)(C); and substituted "§§ 14-16-108 — 14-16-110" for "§ 14-16-108, § 14-16-109, § 14-16-110" in (f)(2)(D).

The 2011 amendment by No. 1014 substituted "as used" for "prescribed" in (b)(3); inserted "the Conservation Easement Act" in (b)(4); inserted (b)(5); inserted "by sealed bids or Internet sales" in (d)(1); and inserted present (d)(2) and redesignated the remaining subdivisions accordingly.

Cross References. Sale of county issued firearms to deputies, § 12-15-301.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

CASE NOTES

Analysis

Applicability.
Timeliness.
Void or Voidable Transactions.

Applicability.

County judge complied with the procedures set forth in § 14-16-106(c) when he sold a gravel crusher belonging to the county after he conferred with the county assessor and they agreed it was junk that should be sold for scrap. The general assembly did not intend for the provisions of this section for sales of county property generally to apply to sales or disposal of surplus property under § 14-16-106. Searcy County Counsel for Ethical Gov't v. Hinchey, 2013 Ark. 84, — S.W.3d — (2013).

Timeliness.

Steel manufacturer's counterclaims against a gas corporation, which challenged easements that were granted to the gas corporation by a county, were procedurally barred under § 14-16-105(f)(1)(A) because they were not brought within two years from the date the sales were consummated. MacSteel Div. of Quanex v. Arkansas Oklahoma Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005).

Void or Voidable Transactions.

Summary judgment for gas company in its declaratory action was proper as the county's grant of a pipeline easement to manufacturer was null and void due to the county's failure to follow the appraisal, notice, and bidding procedures required in this section, and the exemptions set out in subdivision (f)(2) for conservation easements did not include the pipeline easement; further, the 2005 amendment to this section, which exempted all easements, could not be applied retroactively because the amendment changed prior law rather than merely clarifying it. MacSteel Div. of Quanex v. Arkansas Oklahoma Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005).

Judgment was properly awarded to a gas corporation in its action for a declaratory judgment that the grant of a pipeline easement by a county, so that a steel manufacturer could obtain gas from the interstate natural gas market, was null and void pursuant to § 14-16-105(f)(1)(A) where the conveyance was not made pursuant to the procedures of the statute. MacSteel Div. of Quanex v. Arkansas Oklahoma Gas Corp., 363 Ark. 22, 210 S.W.3d 878 (2005).

Cited: Ark. Okla. Gas Corp. v. MacSteel Div. of Quanex, 370 Ark. 481, 262 S.W.3d 147 (2007); Searcy County Counsel for Ethical Gov't v. Hinchey, 2011 Ark. 533, — S.W.3d — (2011).

14-16-106. Sale or disposal of surplus property.

(a) If it is determined by the county judge to be surplus, any personal or real property owned by a county may be sold at public auction or by Internet sale to the highest bidder.

(b)(1) Notice of the public auction or Internet sale shall be published at least one (1) time a week for two (2) consecutive weeks in a newspaper having general circulation in the county.

(2) The notice shall specify the description of the property to be sold and the time and place of the public auction or Internet sale.

(3)(A) If the property will be sold by Internet sale, the notice of sale shall be placed on the website of the Internet vendor for no less than eight (8) consecutive days before the date of sale and shall contain a description of the property to be sold and the time of the sale.

(B) An additional notice may be posted on a county-owned or county-affiliated website, trade website, or business website for no less than eight (8) consecutive days before the date of sale.

(c)(1) If it is determined by the county judge and the county assessor that any personal property owned by a county is junk, scrap, discarded, or otherwise of no value to the county, then the property may be disposed of in any manner deemed appropriate by the county judge.

(2) However, the county judge shall report monthly to the quorum court any property that has been disposed of under subdivision (c)(1) of this section.

(d) The county fixed asset listing shall be amended to reflect all sales or disposal of county property made by the county under this section.

(e) If the sale is conducted on the Internet, the invoice from the Internet vendor or publisher shall be accompanied by a statement from the Internet vendor or publisher that the sale was published and conducted on the Internet.

(f)(1) When the sale is complete, the county court shall enter an order approving the sale.

(2) The order shall set forth:

(A) The description of the property sold;

(B) The name of the purchaser;

(C) The terms of the sale;

(D) That the proceeds of the sale have been deposited with the county treasurer; and

(E) The funds to which the proceeds were credited by the county treasurer.

History. Acts 1980 (1st Ex. Sess.), No. 41, § 1; 1980 (1st Ex. Sess.), No. 63, § 1; A.S.A. 1947, § 17-322; Acts 1997, No. 364, § 1; 2005, No. 725, § 1; 2011, No. 614, § 4; 2011, No. 1014, § 2.

Publisher's Notes. This section is being set out to correct an omission of (b)(3) from the 2011 supplement.

Amendments. The 2011 amendment inserted "or by Internet sale" in (a), (b)(1) and (2); and added (d).

CASE NOTES

Compliance.

County judge complied with the procedures set forth in subsection (c) of this section when he sold a gravel crusher belonging to the county after he conferred with the county assessor and they agreed it was junk that should be sold for scrap. The general assembly did not intend for the provisions of § 14-16-105 for sales of county property generally to apply to sales or disposal of surplus property under this section. Searcy County Counsel for Ethical Gov't v. Hinchey, 2013 Ark. 84, — S.W.3d — (2013).

Cited: Searcy County Counsel for Ethical Gov't v. Hinchey, 2011 Ark. 533, — S.W.3d — (2011).

14-16-109. Lease of county lands to municipality.

(a) Any county in this state may lease any lands owned by the county to any municipality in the county to be used for such purposes, subject to such restrictions, and for such consideration or compensation as shall be agreed upon by the contracting county and municipality.

(b) In addition to other terms the county court finds reasonable and proper, the contract for the lease of county property shall provide that when the leased property ceases to be used for the purpose expressed in the lease or needs to be used by the county, the lease may be cancelled by the county court after reasonable notice.

History. Acts 1971, No. 444, § 1; A.S.A. 1947, § 17-319; Acts 2009, No. 410, § 6.

Amendments. The 2009 amendment in (a) substituted "may" for "is authorized and empowered to", and added (b), redesignated the remaining text accordingly, and made a minor stylistic change.

14-16-110. Lease of county property to educational institutions.

(a) Any lawfully incorporated nonprofit, nonsectarian educational institution; any lawfully incorporated nonprofit, nonsectarian boys' club or girls' club; or any lawfully incorporated quasi-public, nonprofit, nonsectarian organizations including, but not limited to, community mental health centers may petition the county court of any county or county district in which the institution, club, or organization is located to lease to it real or personal property belonging to the county for use by the institution, club, or organization.

(b)(1) Immediately upon the filing of the petition, the judge of the county court shall make an order fixing a time and place for a public hearing on the petition, notice of which order shall be given by the county clerk by publication one (1) time in a legal newspaper having a bona fide legal circulation in the county or county district at least ten (10) days prior to the date fixed for the hearing.

(2)(A) The notice shall state the time of filing, the substance and purpose of the petition, and the time and place of hearing it.

(B)(i) The hearing shall be public, and all persons having an interest in the subject matter of the petition shall be entitled to be heard either in person or by attorney.

(ii) The hearing may be continued or adjourned to a further date, at the discretion of the court, but no further notice thereof by publication shall be required.

(c)(1) When satisfied from the petition or the evidence, if any, at the hearing that any real or personal property belonging to the county or county district is not, and in the future will not be, needed for use by the county and that the property may be used by any lawfully incorporated, quasi-public, nonprofit, nonsectarian institution, club, or organization in the county or county district, then the county court may order the lease of any property to the legally constituted directors or trustees of the institution, club, or organization for such time and upon such terms and conditions as the county court, in its discretion, shall find just, reasonable, and proper.

(2) The lease shall be signed and approved by the judge of the county court and by the directors or trustees of the institution, club, or organization and shall thereafter be and become a binding and valid contract when the order authorizing it shall have become final as provided in this section.

(3) Any such lease shall provide, in addition to any other terms as the county court shall deem reasonable and proper, that when the property ceases to be used for the foregoing purposes or needs to be used by the county, the lease may be cancelled by the county court, after reasonable notice.

(d)(1)(A) When a hearing shall have been had pursuant to notice, as provided in this section, and an order granting or denying the petition shall have been made, the order shall become final and binding thirty (30) days after entry unless within that thirty (30) days any interested person or taxpayer of the county or county district shall appeal to the circuit court of the county or county district, the appeal from the order to be prosecuted and determined in the same manner as provided by law for appeals from the county court to the circuit court in municipal annexation cases.

(B) In like manner, the final judgment of the circuit court may be appealed by any interested person or taxpayer to the Supreme Court likewise as in such cases.

(2) Any appeal to the circuit court or from the circuit court to the Supreme Court must be taken and transcript lodged in the appellate court not later than thirty (30) days after the judgment or order of the court appealed from, and that appeal shall be advanced on motion of any party thereto.

(3) In the event of any appeal from the order of the county court as provided in this subsection, the order shall not become final until the appeal is finally determined.

History. Acts 1951, No. 26, §§ 1, 2; 1957, No. 37, § 1; 1975, No. 192, § 1; A.S.A. 1947, §§ 17-313, 17-314; Acts 2009, No. 410, § 7.

Amendments. The 2009 amendment in (c)(3) inserted "or needs to be used by the county" and made minor stylistic changes.

14-16-116. Property exchange by counties.

Counties are authorized to exchange properties, real or personal, with other counties or with municipalities. Provided, any such exchange shall be approved by ordinances of the quorum court and shall be accomplished in accordance with procedures prescribed by the quorum court.

History. Acts 1999, No. 1248, § 1.
Publisher's Notes. Acts 1999, No. 1248 became law without the Governor's signature.

Subchapter 5 — Regulation of Use of Firearms and Archery Equipment

SECTION.

14-16-504. Regulation by local unit of government.

(a) As used in this section, "local unit of government" means a city, town, or county.

(b)(1)(A) A local unit of government shall not enact any ordinance or regulation pertaining to, or regulate in any other manner, the ownership, transfer, transportation, carrying, or possession of firearms, ammunition for firearms, or components of firearms, except as otherwise provided in state or federal law.

(B) The provision in subdivision (b)(1)(A) of this section does not prevent the enactment of an ordinance regulating or forbidding the unsafe discharge of a firearm.

(2)(A) A local unit of government shall not have the authority to bring suit and shall not have the right to recover against any firearm or ammunition manufacturer, trade association, or dealer for damages, abatement, or injunctive relief resulting from or relating to the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public.

(B) The authority to bring any suit and the right to recover against any firearm or ammunition manufacturer, trade association, or dealer for damages, abatement, or injunctive relief shall be reserved exclusively to the State of Arkansas.

(C) However, subdivisions (b)(1)(A) and (B) of this section do not prevent a local unit of government from bringing suit against a firearm or ammunition manufacturer or dealer for breach of contract or warranty as to firearms or ammunition purchased by the local unit of government.

(c)(1) The governing body of a local unit of government, following the proclamation by the Governor of a state of emergency, is prohibited from enacting an emergency ordinance regulating the transfer, transportation, or carrying of firearms or components of firearms.

(2) A person who has his or her firearm seized in violation of subdivision (c)(1) of this section may bring an action in the circuit court having jurisdiction for the return of the seized firearm.

History. Acts 1993, No. 1100, §§ 1-3; 1999, No. 951, § 1; 2011, No. 165, § 1.

Amendments. The 2011 amendment substituted "The provision in subdivision (b)(1)(A) of this section does" for "This shall" in (b)(1)(B); substituted "However, subdivisions (b)(1)(A) and (B) of this section do" for "Provided, this shall" in (b)(2)(C); in (c)(1), deleted "Notwithstanding subsection (b) of this section" at the beginning and substituted "is prohibited from enacting" for "may enact"; and rewrote (c)(2).

Subchapter 8 — Preservation of Local Public Roads Act

Effective Dates. Acts 2009, No. 810, § 2: Apr. 3, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that while oil or gas exploration has stimulated Arkansas's economy, the hauling operations for the disposal of materials and production fluids from oil or gas operations require the hauling of heavy loads that cause damage to roads; that the costs of repairing, resurfacing, and maintaining roads has increased dramatically in the last two (2) years, while many counties are facing declining revenue collections; and that this act is immediately necessary to provide a uniform procedure for counties that do not have road maintenance agreements with disposal haulers and disposal operators to use to ensure that adequate revenue is available to make repairs necessary to local public roads. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-16-801. Title.

This subchapter shall be known and may be cited as the "Preservation of Local Public Roads Act".

History. Acts 2009, No. 810, § 1.

14-16-802. Purpose.

The purpose of this subchapter is to provide a procedure for addressing the anticipated damage to county roads caused by disposal hauling operations related to oil or gas exploration and to provide compensation for the anticipated damage to the roads from disposal haulers.

History. Acts 2009, No. 810, § 1.

14-16-803. Definitions.

As used in this subchapter:

(1) "Designated local road truck route" means a local public road established by the county judge as the route to be used by disposal haulers to transport materials and production fluids related to oil or gas exploration to and from a disposal facility;

(2) "Disposal facility" means a surface or injection well disposal facility designated for the disposal of materials and production fluids related to oil or gas exploration that is located on or off a local public road in the state;

(3) "Disposal hauler" means the driver, owner, or operator of a motor vehicle that is engaged in hauling materials or production fluids related to oil or gas exploration to a disposal facility;

(4) "Disposal operator" means the owner, manager, or operator of a disposal facility;

(5)(A) "Local public road" means any public road that lies between the disposal facility and a road, street, or highway that is part of the state highway system.

(B) "Local public road" does not include a road, street, or highway that is part of the state highway system; and

(6) "Road maintenance agreement" means an agreement between the county and a disposal operator regarding compensation for damages caused by disposal haulers to any designated local road truck route.

History. Acts 2009, No. 810, § 1.

14-16-804. Evaluation by county judge.

(a) Notwithstanding any other procedure or authority available under law, if a county does not have a road maintenance agreement, the county judge may use the procedures under this section to evaluate the use and anticipated damage caused to local public roads in the county by disposal haulers.

(b) As part of the evaluation process, the county judge may:

(1) Receive and consider input from disposal operators on the designated local road truck route;

(2) Estimate the number of loads and damages to be sustained upon the designated local road truck route by disposal haulers;

(3) Estimate the total dedicated road revenues available to the county on an average per-mile basis for all of the local public roads in his or her respective county; and

(4) Estimate the additional revenue that may be necessary to repair and maintain the designated local road truck route because of anticipated damages.

(c) A county judge who has performed an evaluation under this section may file a report of the evaluation determinations with the quorum court.

History. Acts 2009, No. 810, § 1.

14-16-805. Recommendation for assessment ordinance.

(a) A county judge who has performed an evaluation under § 14-16-804 may submit to the quorum court a recommendation that an assessment be made by the county in the form of a proposed assessment ordinance as provided under this section.

(b)(1) The proposed assessment ordinance shall include the amount that the county judge recommends to be assessed on a per-load basis for each load that is transported by a disposal hauler to a disposal facility.

(2) The maximum amount of the assessment in the proposed assessment ordinance is five dollars ($5.00) per load of materials or production fluids from oil or gas exploration.

(c) The proposed assessment ordinance shall include a penalty as provided under § 14-16-808.

History. Acts 2009, No. 810, § 1.

14-16-806. Assessment ordinance — Collection.

(a) If a quorum court enacts the proposed assessment ordinance recommended by the county judge under § 14-16-805, the assessment ordinance:

(1) Is limited to a maximum amount of five dollars ($5.00) per load of materials or production fluids from oil or gas exploration; and

(2) Shall include a penalty as provided under § 14-16-808.

(b)(1) If a quorum court enacts an assessment ordinance under this subchapter, the assessment shall be collected by the disposal operator and remitted to the county treasurer on a monthly basis as provided in the ordinance.

(2) All revenue generated by this assessment shall be used exclusively to maintain and repair the designated local road truck route.

History. Acts 2009, No. 810, § 1.

14-16-807. Oversight.

(a) If a county judge makes recommendations under this subchapter, the county judge shall annually review his or her evaluation and recommendations as provided under this subchapter.

(b) If there is a significant change in conditions, the county judge shall file a revised evaluation and revised recommendations for consideration by the quorum court using the same procedures under which the original evaluation and recommendations were made under this subchapter.

History. Acts 2009, No. 810, § 1.

14-16-808. Penalties.

The quorum court may provide penalties for the violation of an ordinance enacted under this subchapter to include a fine to be levied:

(1) For the failure of a disposal hauler to follow the designated local road truck route; and

(2) Against a disposal operator who fails to comply with § 14-16-806(b).

History. Acts 2009, No. 810, § 1.

CHAPTER 17

COUNTY PLANNING

SUBCHAPTER.

Subchapter 2 — County Planning Boards

SECTION.

14-17-203. Creation and organization.

(a) The county judge of any county may, with the approval of the majority of the members of the county quorum court, create a county planning board. The board shall consist of not less than five (5) members nor more than twelve (12) members appointed by the judge and confirmed by the court. At least one-third (⅓) of the members shall not hold any other elective office or appointment, except membership on a municipal or joint planning commission or a zoning board of adjustment.

(b) The term of each member shall be four (4) years. In the initial appointments to the board, a majority, but not exceeding three-fifths (3/5) of the total membership of the board, shall be appointed for two (2) years and the remaining members for four (4) years. A vacancy in the membership due to death, resignation, removal, or other cause shall be filled by an appointee of the judge, confirmed by the court, for the unexpired term. Any member of the board shall be subject to removal for cause upon recommendation of the judge and confirmation by the court.

(c) The board shall designate one (1) of its members as chair and select a vice chair and such other officers as it may require.

(d) A regular meeting date shall be established providing for at least one (1) regular meeting to be held in each quarter of each calendar year.

(e) The board shall adopt rules and regulations for the discharge of its duties and the transaction of business and shall keep a public record of all business, resolutions, transactions, findings, and determinations.

(f) County quorum courts may elect to assume the powers, duties, and functions of the board. Such determination shall be implemented by ordinance. A court which elects to exercise this option shall not be bound by the provisions of this section and § 14-17-204, but may, by ordinance, establish such administrative changes as may be appropriate.

(g)(1)(A) A county quorum court may elect to act as a board of administrative appeal prior to an appeal to circuit court from a decision of the county planning board.

(B) The county judge shall be the chair of the board of administrative appeal but shall vote only in the event of a tie.

(C) The county quorum court shall determine the number of quorum court members who shall sit on the board of administrative appeal.

(2) Any appeal concerning roads shall be appealed directly to circuit court.

History. Acts 1981, No. 516, § 2; A.S.A. 1947, § 17-1107; Acts 2007, No. 565, § 1.

14-17-206. Purpose and content of county plan.

(a) The county plan shall be made with the general purpose of guiding and accomplishing a coordinated, efficient, and economic development of the county, or part thereof. In accordance with one (1) or more of the following criteria, the plan shall seek to best promote the health, safety, convenience, prosperity, and welfare of the people of the county.

(b) Each county plan shall reflect the county's development policies and shall contain a statement of the objectives and principles sought to be embodied therein. Each plan, with the accompanying maps, charts, and descriptive matter, may make recommendations, among other things, as to:

(1) The conservation of natural resources;

(2) The protection of areas of environmental concern;

(3) The development of land subject to flooding;

(4) The provision of adequate recreation, education, and community facilities, including water, sewer, solid waste, and drainage improvements;

(5) The development of transportation facilities, housing development, and redevelopment;

(6) The consideration of school district boundaries; and

(7) Other matters which are logically related to or form an integral part of a long-term plan for orderly development and redevelopment of the county.

(c)(1) Areas of critical environmental concern include, among other things, aquifers and aquifer recharge areas, soils poorly suited to development, floodplains, wetlands, prime agricultural and forestlands, the natural habitat of rare or endangered species, areas with unique ecosystems, or areas recommended for protection in the Arkansas natural areas plan. Plans for these areas shall give consideration to protective mechanisms which seek to regulate activities or development in the areas.

(2) These mechanisms may include establishment of special zoning districts, adoption and enforcement of building codes, acquisition of easements or land through capital expenditures programming, and specialized development policies. Where appropriate, county management activities for areas of critical environmental concern shall involve cooperative agreements with interested state and federal agencies.

(d) In the preparation of all plans for the county or part of a county, the county planning board shall:

(1) Provide that plans are consistent with state plans and other related regional, county, and municipal plans, and school district boundaries in order to avoid inconvenience and economic waste and to assure a coordinated and harmonious development of the county, region, and state; and

(2) Notify by first class mail the boards of directors of all school districts affected by a plan sufficiently in advance to allow representatives of all affected school districts to submit comments on any proposed plan.

History. Acts 1977, No. 422, § 4.0; A.S.A. 1947, § 17-1110; Acts 2005, No. 2144, § 1.

14-17-207. Adoption, amendment, and enforcement of official plans and implementing ordinances.

(a) The county planning board, by majority vote of its entire membership, may recommend to the county quorum court the adoption, revision, or rescission of an official plan for the county or zoning, subdivision, setback, or entry control ordinances referred to as implementing ordinances in this subchapter.

(b)(1) Before the adoption or revision of an official plan or implementing ordinance, or parts thereof, the board shall hold at least one (1) public meeting on the adoption or revision. The meeting may be adjourned from time to time. Prior to the meeting, the board chair shall notify the court of the purpose and intent of the meeting in sufficient time to allow the justices to attend the meeting if they so desire. At the same time, the public shall be notified of the meeting through the local newspapers and other media.

(2) In addition, the board of directors of each school district affected by a proposed official plan or implementing ordinance shall be notified of the meeting by first class mail sufficiently in advance to allow representatives of each affected school district a reasonable opportunity to attend the public meeting and submit comments on any proposed official plan or implementing ordinance.

(c) Following the public meeting and endorsement of the plan or implementing ordinances by the board, as provided in this section, it shall be forwarded to the quorum court for its consideration. The court may adopt the plan as the official plan for the county by ordinance, may modify the plan or parts of the plan, or may return the plan or parts of the plan to the board for further consideration. In the event the court modifies the plan or parts of the plan, it shall return the plan, as modified, to the board with instructions to conduct a public hearing on the modifications as provided in subsection (b) of this section. Following the hearing, the court may adopt, modify, or reject the plan as modified, whether or not the board endorses the modified plan. The same procedures shall be followed for any implementing ordinances enacted by the county. Planning and zoning recommendations initiated by the court shall be sent to the board for the public meeting as required by this subsection.

(d) From and after the adoption by the court of the official county plan, no improvements shall be made or authorized and no property shall be acquired, or its acquisition authorized, by any county or public agency which has, or is likely to have, definite part in or relation to the official county plan unless the proposed location, character, and extent thereof shall have been submitted by the agency concerned to the board and a report and recommendation of the board thereon shall have been received. If the board fails to initiate deliberation on such improvement or acquisition within thirty (30) days after receipt thereof and to furnish in writing its report and recommendations upon a proposal within sixty (60) days thereafter, the agency may proceed without the report and recommendation.

(e) In case any such improvement, ground, building, structure, or property is given a location or extent which does not accord with the report and recommendations of the board, the county official, department, or any other public agency having charge of the location, authorization, acquisition, or construction of it shall file in the office of the board a statement of its or his or her reasons for the departure from the report and recommendation, and such statement shall be open to public inspection.

(f) The quorum court shall provide for the means of enforcing the official plan or zoning, subdivision, setback, and entry control ordinances, shall provide penalties for violations, and may seek appropriate remedies for violations. Any individual aggrieved by a violation of any such plan or ordinance may request an injunction against any individual or property owner in violation or may mandamus any official to enforce the provisions of the ordinance.

History. Acts 1977, No. 422, § 5.0; 1981, No. 278, § 2; A.S.A. 1947, § 17-1111; Acts 2005, No. 2144, § 2.

14-17-208. Subdivision, setback, and entry control ordinances.

(a) The county planning board may prepare and, after approval by the county quorum court, shall administer the ordinance controlling the development of land. The development of land includes, but is not limited to, the provision of access to lots and parcels, the provision of utilities, the subdividing of land into lots and blocks, and the parceling of land resulting in the need for access and utilities.

(b) The ordinance controlling the development of land may establish or provide for minimum requirements as to:

(1) Information to be included on the plat filed for record;

(2) The design and layout of the subdivision, including standards for lots and blocks, streets, public rights-of-way, easements, utilities, consideration of school district boundaries, and other similar items; and

(3) The standards for improvements to be installed by the developer at his or her expense, such as street grading and paving, curbs, gutters, and sidewalks, water, storm, and sewer mains, street lighting, and other amenities.

(c) The ordinance shall require that all plats of two (2) or more parcels be submitted to the county planning board for its approval and certification.

(d) The ordinance may require the installation or assurance of installation of required improvements before plat approval. Further, the regulations may provide for the dedication of all rights-of-way to the public.

(e) Neither the county planning board nor the court shall restrict nor limit the right of any person to file a deed or other instrument of transfer of property with the county recorder to be filed of record.

(f) The ordinance shall establish the procedure to be followed to secure plat approval by the county planning board.

(g) The ordinance shall require the development to conform to the official plan currently in effect. The ordinance may require the reservation or reasonable equivalent contribution of cash, other land, or considerations as approved by the county planning board for future public acquisition of land for community or public facilities indicated in the official plan. The reservation may extend over a period of not more than one (1) year from the date of recording the final plat with the county recorder.

(h) Adoption of a county subdivision ordinance shall be preceded by:

(1) The adoption of an official road plan for the unincorporated areas of the county. The plan shall include, as a minimum, designation of the general location, characteristics, and functions of roads, and the general location of roads to be reserved for future public acquisition. The plan may also recommend, among other things, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any public ways; and

(2) Notification by first class mail of the board of directors of each school district affected by a proposed county subdivision ordinance sufficiently in advance to allow representatives of all affected school districts a reasonable opportunity to submit comments on any proposed county subdivision ordinance.

(i) In unincorporated areas adjoining the corporate limits of a municipality in which the authority to control the subdivision of land is vested and is being exercised in accordance with and under the provisions of §§ 14-56-401 — 14-56-408 and 14-56-410 — 14-56-425, or any amendments thereto or thereof, or other acts of a similar nature enacted by the General Assembly, the municipal authority shall have subdivision jurisdiction, but shall transmit copies of proposed plats for the areas to the county planning board and the board of directors of each affected school district for review and comment, which shall be made to the municipal authority within sixty (60) days from the time it is received by the county planning board and the board of directors of each affected school district unless further time is allowed by the municipal authority.

(j) When an official road plan has been adopted and filed as provided for in § 14-17-207, the court, upon recommendation of the county planning board, may enact ordinances establishing setback lines on the major streets and highways as are designated by the plan and may prohibit the establishment of any structure or other improvements within the setback lines.

(k) When an official road plan has been adopted and filed as provided for in § 14-17-207, the court, upon recommendation of the county planning board, may enact ordinances providing for the control of entry into any of the roads shown in the official plan.

(l)(1) Following the adoption of any subdivision, setback, or entry control ordinances by the court, the county recorder shall not accept any plat in the unincorporated area of the county not within the exercised extraterritorial jurisdiction of a municipality for record without the approval of the county planning board.

(2) The county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of:

(A) Roads for perpetual maintenance; and

(B) Any dedication of land for public purposes.

History. Acts 1977, No. 422, § 6.0; A.S.A. 1947, § 17-1112; Acts 2005, No. 1981, No. 532, § 1; 1981, No. 691, § 1; 862, § 1; 2005, No. 2144, § 3.

CASE NOTES

Descriptions.

In a boundary dispute between adjoining property owners involving an alleged "spite" fence, a metes-and-bounds description of the property was not required where the survey that was part of the record sufficiently identified the parties' respective properties so that each party was capable of knowing where their boundary was. Jenkins v. Fogerty, 2011 Ark. App. 720, — S.W.3d — (2011).

14-17-209. Zoning ordinance — Board of zoning adjustment.

(a) The county planning board shall have authority to prepare, or to cause to be prepared, a zoning ordinance for all or part of the unincorporated area of the county, which ordinance shall include both a map and a text. The zoning ordinance may regulate the location, height, bulk, number of stories, and the size of building; open space; lot coverage; density and distribution of population; and the uses of land, buildings, and structures. It may require off-street parking and loading. It may provide for districts of compatible uses, for large scale unified development, for the control and elimination of uses not in conformance with provisions of the ordinance, and for such other matters as are necessary to the health, safety, and general welfare of the county. The zoning ordinance shall designate districts or zones of such shape, size, or characteristics as deemed advisable for all, or part, of the unincorporated area of the county. The regulations imposed within each district or zone shall be uniform throughout the district or zone.

(b) The determination of zones shall be consistent with any officially adopted plans for the area to be zoned. In the development of zoning districts and their boundaries, due consideration shall be given to the adopted plans of municipal planning commissions for extraterritorial planning areas.

(c) The zoning ordinance shall be observed through denial of the issuance of building permits and use permits.

(d) It shall be unlawful to erect, construct, reconstruct, alter, maintain, or use any land, building, or structure in violation of any ordinance of the county quorum court.

(e) The zoning ordinance shall provide for a board of zoning adjustment which shall be formed in either of the following ways:

(1) A minimum of three (3) residents of the county may be appointed to the board of zoning adjustment; or

(2) The planning board as a whole may sit as the board of zoning adjustment.

(f) Whenever a separate board of zoning adjustment is established, appointments, length of term, vacancies, removal, and compensation shall be the same as for the county planning board.

(g) The board of zoning adjustment shall have the following functions:

(1) To hear appeals from administrative decisions with respect to the enforcement and application of the ordinance and affirm or reverse, in whole or part, the administrative decisions;

(2) To hear requests for variances from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration and to grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance. The board of zoning adjustment may impose conditions in the granting of a variance to ensure compliance and to protect adjacent property.

(h) The board of zoning adjustment shall not permit, as a variance, any use in a zone that is not permitted under the ordinance.

(i)(1) Decisions of the board of zoning adjustment in respect to subsections (a)-(h) of this section shall be subject to appeal only to a court of record having jurisdiction.

(2)(A) However, a county quorum court may elect to act as a board of administrative appeal prior to an appeal to a court of record from a decision of the board of zoning adjustment.

(B) The county judge shall be the chair of the board of administrative appeal but shall vote only in the event of a tie.

(C) The county quorum court shall determine the number of quorum court members who shall sit on the board of administrative appeal.

(3) Any appeal concerning roads shall be appealed directly to circuit court.

History. Acts 1977, No. 422, § 7.0; A.S.A. 1947, § 17-1113; Acts 2007, No. 565, § 2.

14-17-211. Appeals.

RESEARCH REFERENCES

Ark. L. Rev. Case Note, Lost in Translation: Combs v. City of Springdale, An Overview of the Ins and Outs of Appeals Procedure for Administrative Decisions by Local Governments, 61 Ark. L. Rev. 351.

CASE NOTES

Applicability.

Circuit court did not err in denying landowners a de novo, jury trial review of a quorum court's decision that changed the land use authorized by a local zoning ordinance when it granted an LLC a conditional use permit to operate a rock quarry. The quorum court's actions were legislative in nature; thus this section did not apply. Bolen v. Wash. County Zoning Bd. of Adjustments, 2011 Ark. App. 319, 384 S.W.3d 33 (2011).

Cited: Benton County v. Overland Dev. Co., 371 Ark. 559, 268 S.W.3d 885 (2007).

CHAPTER 18

PLATTED LANDS OUTSIDE MUNICIPALITIES

14-18-101. Subdivision of lands — Filing.

CASE NOTES

Cited: Martin v. Shew, 96 Ark. App. 32, 237 S.W.3d 497 (2006).

14-18-102. Descriptions deemed legal.

CASE NOTES

Deficiencies in Descriptions.

Trial court properly found that, as the 2002 conveyance from developer to trustees did not convey the property encompassing Tract 5 by reference to the July 2001 survey, the division was never effective; the 2002 conveyance only referred to a metes-and-bounds description of Tract 5 (and one-half of Tract 4) from the 1999 survey. Martin v. Shew, 96 Ark. App. 32, 237 S.W.3d 497 (2006).

14-18-105. Authority to vacate street, alley, or roadway.

CASE NOTES

Analysis

Applicability.
Petition to Vacate Properly Granted.

Applicability.

Sections 14-18-105 to 14-18-109 did not apply to an action pertaining to the vacation of a county road; the sections only apply to the vacation of streets in platted lands outside municipalities. Perry v. Lee County, 71 Ark. App. 47, 25 S.W.3d 443 (2000).

Petition to Vacate Properly Granted.

Appellees' petition to vacate a section of a road in their subdivision was properly granted because, under the terms of subdivision (b)(2) of this section, appellant, who owned property outside and adjacent to the subdivision, did not need to sign the petition or consent to it; at most, appellant was entitled to an opportunity to be heard under § 14-18-107(a) as a member of the public or any other party otherwise affected by the vacation, and appellant was afforded that right. Weisenbach v. Dewayne, 104 Ark. App. 245, 290 S.W.3d 614 (2009).

14-18-106. Petition to vacate street, etc.

CASE NOTES

Consent.

Appellees' petition to vacate a section of a road in their subdivision was properly granted because, under the terms of subdivision (b)(2) of this section, appellant, who owned property outside and adjacent to the subdivision, did not need to sign the petition or consent to it; at most, appellant was entitled to an opportunity to be heard under § 14-18-107(a) as a member of the public or any other party otherwise affected by the vacation, and appellant was

afforded that right. Weisenbach v. Dewayne, 104 Ark. App. 245, 290 S.W.3d 614 (2009).

14-18-107. Determination on vacation of street, etc.

CASE NOTES

Right to Be Heard.

Appellees' petition to vacate a section of a road in their subdivision was properly granted because, under the terms of § 14-18-106(b)(2), appellant, who owned property outside and adjacent to the subdivision, did not need to sign the petition or consent to it; at most, appellant was entitled to an opportunity to be heard under subsection (a) of this section as a member of the public or any other party otherwise affected by the vacation, and appellant was afforded that right. Weisenbach v. Dewayne, 104 Ark. App. 245, 290 S.W.3d 614 (2009).

CHAPTER 19

COUNTY BUILDINGS

SECTION.
14-19-109. [Repealed.]

14-19-109. [Repealed.]

Publisher's Notes. This section, concerning the expenditure of current funds for jail facilities, is repealed by Acts 2001, No. 1223, § 1. The section was derived from Acts 1972 (Ex. Sess.), No. 60, §§ 1-4; A.S.A. 1947, §§ 17-924, 17-924n, 17-925, 17-926.

CHAPTER 20

QUORUM OR LEVYING COURTS

SECTION.
14-20-103. Appropriations to be specific — Limitation.
14-20-107. Appropriations for Association of Arkansas Counties.
14-20-108. Dues for volunteer fire departments.
14-20-112. County gross receipts tax on hotels and restaurants.

Effective Dates. Acts 2005, No. 2314, § 3: Apr. 14, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that existing law restricts the ability of a county to levy an advertising and promotion tax within the county; that existing law restricts the ability of a municipality to collect advertising and promotion tax; that advertising and promotion tax provides a source of municipality and county funds for promoting tourism and enhances the state's economy; and that this act is immediately necessary in order to provide cities and counties with the ability to control local finances. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 182, § 32: January 1, 2008.

Acts 2007, No. 473, § 4: Mar. 23, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that tourist season is rapidly approaching and cities and towns depend on the local tax revenue generated through local hotels, motels, restaurants, or similar establishments; that the law as currently written does not allow the local government the flexibility to collect the tax in a manner that reflects local business establishments; and that this act is necessary because it is imperative to the successful operation of local government to capture the tax revenue from the approaching tourist season. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1480, § 117: July 31, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-20-102. County funds for defense of indigents — Fees assessed.

CASE NOTES

Analysis

Construction.
Civil Representation of Minor.

Construction.

The purpose of §§ 16-10-307 and 16-87-306 is to provide representation for indigents in cases in which there is a potential for loss of liberty, but the provision of this section that grants authority for the trial court to appoint attorneys for minors in civil litigation to be paid by county funds was not incorporated in the statutes establishing and defining the duties and responsibilities of the Commission. Arkansas Pub. Defender Comm'n v. Burnett, 340 Ark. 233, 12 S.W.3d 191 (2000).

Civil Representation of Minor.

Section 16-10-307, which allocates to the Public Defender Commission a portion of county funds established by this section, does not contain language authorizing the Commission to expend funds for the civil representation of a minor. Arkansas Pub. Defender Comm'n v. Burnett, 340 Ark. 233, 12 S.W.3d 191 (2000).

14-20-103. Appropriations to be specific — Limitation.

(a) The county quorum court shall specify the amount of appropriations for each purpose in dollars and cents, and except as authorized in subsections (c) and (d) of this section, the total amount of appropriations for all county or district purposes for any one (1) year shall not exceed ninety percent (90%) of the anticipated revenues for that year, except for federal or state grants overseen by counties for which the court may appropriate up to one hundred percent (100%) of the anticipated revenues for that year.

(b) For revenues to qualify as a grant under this section, the county must demonstrate that the state or federal agency characterized the revenues as a grant.

(c)(1) In any county in which a natural disaster, including but not limited to a flood or tornado, results in the county's being declared a disaster area by the Governor or an appropriate official of the United States Government, the quorum court of the county may appropriate in excess of ninety percent (90%) of anticipated revenues.

(2) Provided, any appropriation of funds in excess of ninety percent (90%) of anticipated revenues shall be made only for street cleanup and repair, collection, transportation and disposal of debris, repair or replacement of county facilities and equipment, and other projects or costs directly related to or resulting from the natural disaster.

(d)(1) In any county in which sales and use tax revenues have been dedicated for a specific purpose, the quorum court of the county may appropriate up to one hundred percent (100%) of anticipated revenues from the dedicated sales and use tax, provided that any appropriation of funds up to one hundred percent (100%) of anticipated revenues shall be made and expended only for the dedicated specific purpose of the tax.

(2) Subdivision (d)(1) of this section shall not:

(A) Apply to dedicated revenues that have been pledged for bonds; or

(B) Include general sales and use tax revenues.

History. Acts 1879, No. 77, § 7, p. 109; C. & M. Dig., § 1985; Pope's Dig., § 2530; Acts 1973, No. 128, § 1; A.S.A. 1947, § 17-411; Acts 1989, No. 141, § 1; 1991, No. 60, § 1; 1997, No. 711, § 1; 2005, No. 876, § 1; 2007, No. 17, § 1.

14-20-106. Limitations on contracts.

CASE NOTES

Cited: AFSCME, Local 380 v. Hot Spring County, 362 F. Supp. 2d 1035 (W.D. Ark. 2004).

14-20-107. Appropriations for Association of Arkansas Counties.

(a)(1) The quorum court of each county in this state may provide for the participation of its county in the services and activities of the Association of Arkansas Counties, a domestic corporation organized and existing under the provisions of the Arkansas Nonprofit Corporation Act, §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-224.

(2) If the quorum court of a county authorizes the participation of the county in this association, then the quorum court shall annually appropriate from county general funds an amount that shall be equal to one percent (1%) of the general revenues received by that county from the County Aid Fund in the State Treasury during the preceding fiscal year.

(3) Participation by each county in this association shall be optional with the quorum court of each of the respective counties as provided in this section.

(b)(1) The funds so received by the association shall be used exclusively by it to finance the object of its existence, namely, to aid in the improvement of county government in the State of Arkansas.

(2) All funds so received by the association shall be subject to audit by the State of Arkansas, and this association shall make available to the auditors at all reasonable times all books, files, and records concerning such funds.

(c) Moneys appropriated by the court as the county's contribution to this association shall be paid to the association during the month of July for the fiscal year commencing on July 1 and ending on June 30 next following.

(d) This association is recognized as the official agency of the counties of this state to receive funds and use them for making a continuing study of ways and means to improve county government in Arkansas.

(e)(1) There is created on the books of the Association of Arkansas Counties a trust fund to be known as the "Automated Records Systems Fund".

(2)(A) The Automated Records Systems Fund shall be funded by counties in Class 6 and Class 7 in the State of Arkansas.

(B) The county recorder of the Class 6 and Class 7 counties shall remit one dollar ($1.00) for each document recorded in the county recorder's office directly to the Automated Records Systems Fund on a monthly basis.

(3)(A) The Automated Records Systems Fund shall be administered by a committee composed of the county recorders of the counties in Class 6 and Class 7 to be known as the "Automated Records Systems Fund Committee".

(B) The committee shall meet biannually to review grant applications made by county recorders in Class 1 — Class 5 solely for purposes directly related to office automation.

(C) The committee shall not disburse any moneys from the Automated Records Systems Fund to counties in Class 6 and Class 7.

(D) The committee shall expend substantially all of the money from the fund on an annual basis.

(E) Each member of the committee may receive expense reimbursement in accordance with § 25-16-901 et seq.

History. Acts 1969, No. 92, §§ 1-4; A.S.A. 1947, §§ 17-425 — 17-428; Acts 2007, No. 615, § 2; 2009, No. 725, § 2.

Amendments. The 2009 amendment inserted (e)(3)(E).

14-20-108. Dues for volunteer fire departments.

(a)(1)(A) The quorum court of each county, upon request filed with the quorum court by one (1) or more volunteer fire departments in the county, may adopt an ordinance authorizing a designated county official to collect and remit to the volunteer fire department the annual or quarterly dues charged by the volunteer fire department in consideration of providing fire protection to unincorporated areas in the county.

(B)(i)*(a)* When a quorum court receives a request for the levy of volunteer fire department dues and the request has been signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department and filed with the county clerk, the quorum court by ordinance shall call for an election on the issue of the levy of the volunteer fire department dues on each residence and on each business having an occupiable structure .

(b)(1) The issue may be placed on the ballot at a special election by order of the quorum court in accordance with § 7-11-201 et seq.

(2) The special election shall be held by August 1.

(c)(1) If the levy is approved by a majority of those voting on the issue, the dues shall be listed annually on real property tax statements and collected by the county collector at the same time and in the same manner as real property taxes.

(2)(A) The county collector shall report delinquencies to the volunteer fire department for collection.

(B) A volunteer fire department may collect dues that have become delinquent and may enforce collection by proceedings in a court of proper jurisdiction.

(ii) The cost of the election shall be borne by the volunteer fire department that requested the levy.

(2) The ordinance enacted by the quorum court shall set forth the terms and conditions on which the dues are to be collected by the county and for the remission of the dues to the volunteer fire department.

(3) However, an active member of a volunteer fire department whose annual or quarterly dues are collected in this manner may be exempt from the annual or quarterly dues charged by the volunteer fire department at the discretion of the volunteer fire department in consideration of providing services to the volunteer fire department.

(b)(1) The quorum court by majority vote may designate the geographical area that a volunteer fire department serves.

(2) Upon request by a volunteer fire department, the quorum court of each county involved may authorize a volunteer fire department to serve a geographical area to extend across the county boundary lines.

(c) The quorum court may establish its own countywide fire department, either regular or voluntary.

(d) This section does not change the authority of intergovernmental cooperation councils to enter into reciprocal agreements or to distribute funds under § 14-284-401 et seq. and § 26-57-614.

(e)(1) If approved by ordinance by the governing body of an incorporated town or a city of the second class on the request of and signed by the fire chief and the chair and secretary of the board of directors, if any, of a volunteer fire department, an incorporated town or a city of the second class located in the volunteer fire department district that is not served by a fire department may be included in the fire protection area with the dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(2)(A) The governing body of the incorporated town or city of the second class by ordinance shall call for an election on the ordinance under subdivision (e)(1) of this section.

(B) The issue may be placed on the ballot at a special election by order of the governing body in accordance with § 7-11-201 et seq., and the special election shall be held by August 1.

(C) If the issue is approved by a majority of those voting on the issue, the incorporated town or city of the second class shall be served by the volunteer fire department district with the dues levied and collected in the same manner as in the unincorporated areas served by the volunteer fire department district.

(D) The cost of the election shall be borne by the governing body of the incorporated town or city of the second class that called for the election.

(f) At the discretion of a volunteer fire department, a church served by a volunteer fire department may be exempt from dues if the church is exempt from real property taxes.

History. Acts 1977, No. 512, § 1; A.S.A. 1947, § 17-455; Acts 1991, No. 1038, § 1; 1995, No. 744, § 1; 2001, No. 984, §§ 1, 2; 2003, No. 201, § 1; 2005, No. 2145, § 18; 2007, No. 96, § 1; 2007, No. 1049, § 36; 2009, No. 300, § 1; 2009, No. 1480, § 52.

A.C.R.C. Notes. Acts 2007, No. 96, § 2, provided: "This act shall not be construed to invalidate any election under Arkansas Code § 14-20-108 held prior to the effective date of this act that levied volunteer fire department dues only on residences."

Amendments. The 2009 amendment by No. 300 inserted "quorum" in (a)(1)(A), (b), and (c); rewrote (a)(1)(B); added (e); and made minor stylistic changes.

The 2009 amendment by No. 1480 substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(1)(B)(i)(b)(1).

14-20-112. County gross receipts tax on hotels and restaurants.

(a)(1)(A)(i) Any county in which there is located a municipality that levies a gross receipts tax on hotels, motels, restaurants, or similar establishments as authorized in § 26-75-601 et seq. may levy by

ordinance of the county quorum court a like tax at the same rate as the levying municipality or at a lesser rate upon the gross receipts from furnishing of hotel or motel accommodations and upon the gross receipts of restaurants or similar establishments located within the county outside the boundaries of the levying municipality.

(ii) The tax levied under this subdivision (a)(1)(A) shall apply to hotels, motels, restaurants, or similar establishments located within unincorporated areas of the county.

(B) Any county in which there is located a municipality that levies a gross receipts tax on hotels, motels, restaurants, or similar establishments as authorized in § 26-75-701 et seq. may levy by ordinance of the county quorum court a like tax at the same rate as the levying municipality or at a lesser rate upon the furnishing of hotel or motel accommodations, the admission price to tourist attractions as defined in § 26-63-401, the gross receipts of gift shops referred to in § 26-75-701, restaurants, or similar establishments located within any township in the county outside the boundaries of the levying municipality.

(b)(1) When any county levies the tax authorized in this section, the tax so levied shall be paid by the persons, firms, and corporations liable therefor and shall be collected by the levying county in the same manner and at the same time as the gross receipts tax levied by § 26-52-101 et seq.

(2)(A)(i) The quorum court levying such tax and the governing body of the municipality levying a like tax may enter into an agreement whereby the tax levied by the county will be collected by the municipality.

(ii) If the tax levied by the county is collected by the municipality, all revenues derived from the tax shall be deposited in the municipality's advertising and promotion fund.

(B) If the tax is collected by the levying county, all revenues derived from the tax, after deducting an amount equal to the cost of collecting it, shall be deposited in the advertising and promotion fund of the municipality located within the county that levies a like tax.

(C) All such funds deposited in the municipality's advertising and promotion fund shall be used for the purposes prescribed in §§ 26-75-601 — 26-75-613.

(c) When any county levies a tax as authorized in this section, the tax shall be reported and remitted in the manner and on forms prescribed by the county or the municipality.

History. Acts 1977, No. 178, §§ 3-5; A.S.A. 1947, §§ 17-450 — 17-452; Acts 2001, No. 1647, § 1; 2005, No. 2314, § 1; 2007, No. 182, § 12; 2007, No. 473, § 1.

Publisher's Notes. The introductory language of Acts 2001, No. 1647, § 1 provided: "Arkansas Code 14-20-112 (a)... is amended to read as follows"; however, Acts 2001, No. 1647, § 1 only set out subdivision (a)(1) and did not specifically repeal subdivision (a)(2). Subdivision (a)(2) has been printed at the request of the Arkansas Code Revision Commission.

Effective Dates. Acts 2007, No. 182, § 32: January 1, 2008.

CHAPTER 21
COUNTY FUNDS

SUBCHAPTER.
1. General Provisions.
2. County Drug Enforcement Fund.

Subchapter 1 — General Provisions

SECTION.
14-21-102. Annual financial report.
14-21-107. [Repealed.]
14-21-108. [Repealed.]
14-21-109. Transfer of funds designated for abolished positions.

14-21-102. Annual financial report.

(a)(1) The clerk of the county court and the county treasurer shall make out or cause to be made out a full and complete annual financial report of the county, using the financial records of the county clerk and county treasurer, giving:

(A) The treasurer's report of the beginning cash balance;

(B) The treasurer's report as to the amount of revenue from each source classification;

(C) The treasurer's report as to the ending cash balance;

(D) The county clerk's report as to the amount expended during the fiscal year for all purposes; and

(E) A statement of the bonded indebtedness and short-term indebtedness of the county.

(2) The annual county financial report shall include all operating accounts of the county for which the quorum court has appropriating control.

(3) The treasurer shall submit all reports required under this section to the clerk of the county court by March 1.

(b)(1)(A) The clerk of the county court shall cause to be published one (1) time in one (1) newspaper published in the county the annual financial report of the county.

(B) If no newspaper is published in the county, then the clerk of the county court shall cause the annual financial report of the county to be published one (1) time in the newspaper having the largest circulation in the county.

(2) The annual financial report shall be published by March 15 of each year for the previous fiscal year of the county.

(c) All costs associated with the publication of the annual financial report of the county may be prorated equally between the clerk of the county court and the county treasurer.

History. Acts 1993, No. 538, §§ 2, 3; 1995, No. 232, § 4; 2009, No. 315, § 1; 2011, No. 614, § 5.

Amendments. The 2009 amendment inserted "and short-term indebtedness" in (a)(3).

The 2011 amendment inserted "and the county treasurer" in (a)(1); rewrote

(a)(1)(A) through (D); added (a)(1)(E); rewrote (a)(3); deleted the last sentence in (b)(1)(A); added (b)(1)(B); rewrote (b)(2); and added (c).

14-21-107. [Repealed.]

Publisher's Notes. This section, concerning transfer of unexpended balances in bond redemption funds, was repealed by Acts 2013, No. 1150, § 1. The section was derived from Acts 1943, No. 60, § 1; 1973, No. 51, § 1; 1977, No. 276, § 1; A.S.A. 1947, §§ 17-605, 17-607.

14-21-108. [Repealed.]

Publisher's Notes. This section, concerning photographic images of checks for county governments, was repealed by Acts 2001, No. 469, § 1. The section was derived from Acts 1997, No. 121, § 1.

14-21-109. Transfer of funds designated for abolished positions.

If county funds are designated for a specific position in the county and the position is subsequently abolished, the county court, by appropriate order, may transfer any remaining balance of county funds designated for that purpose to the county general revenue fund to be used for all purposes for which the county general revenue fund may be used.

History. Acts 2013, No. 958, § 2.

Subchapter 2 — County Drug Enforcement Fund

SECTION.
14-21-201. Establishment of drug enforcement fund.

14-21-201. Establishment of drug enforcement fund.

(a) Ordinance. Each quorum court may by ordinance establish a drug enforcement fund. The ordinance shall set a maximum amount for the fund, not to exceed fifty thousand dollars ($50,000). The drug enforcement fund shall be administered by the county sheriff in accordance with the provisions and procedures of this subchapter. All funds shall initially be deposited in a drug enforcement fund bank account. The bank account shall be established at a bank located in the State of Arkansas and authorized by law to receive the deposit of public funds.

(b) Source of Funds. The source of all funds deposited in the drug enforcement fund shall be funds appropriated by the quorum court. The initial funding and any subsequent reimbursements to the drug enforcement fund shall be appropriated by the quorum court and subject to the normal disbursement procedures required by law. No funds from other sources, including seized property, shall be deposited into the drug enforcement fund.

History. Acts 1997, No. 362, § 1; 2013, No. 154, § 1.

Amendments. The 2013 amendment substituted "fifty thousand dollars ($50,000)" for "ten thousand dollars ($10,000)" in the second sentence of (a).

CHAPTER 22

COUNTY PURCHASING PROCEDURES

Effective Dates. Acts 2009, No. 756, § 25: Apr. 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that motor vehicle dealers are experiencing economic difficulties related to the state of the national economy and the motor vehicle industry in particular; that an unprecedented number of motor vehicle dealers may terminate their franchises as a result of these economic conditions; and that this act is immediately necessary to assist dealers that are facing possible termination of their franchise. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-22-101. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Commodities" means all supplies, goods, material, equipment, machinery, facilities, personal property, and services other than personal services, purchased for or on behalf of the county;

(2) "Formal bidding" shall mean the procedure to be followed in the solicitation and receipt of sealed bids, wherein:

(A) Notice shall be given of the date, time, and place of opening of bids, and the names or a brief description and the specifications of the commodities for which bids are to be received, by one (1) insertion in a newspaper with a general circulation in the county, not less than ten (10) days nor more than thirty (30) days prior to the date fixed for opening such bids;

(B) Not less than ten (10) days in advance of the date fixed for opening the bids, notices and bid forms shall be furnished to all eligible bidders on the bid list for the class of commodities on which bids are to be received, and to all others requesting them; and

(C) At least ten (10) days in advance of the date fixed for opening bids, a copy of the notice of invitation to bid shall be posted in a conspicuous place in the county courthouse;

(3) "Open market purchases" means those purchases of commodities by any purchasing official in which competitive bidding is not required;

(4) "Purchase" means not only the outright purchase of a commodity, but also the acquisition of commodities under rental-purchase agreements or lease-purchase agreements or any other types of agreements whereby the county has an option to buy the commodity and to apply the rental payments on the purchase price thereof;

(5) "Purchase price" means the full sale or bid price of any commodity, without any allowance for trade-in;

(6) "Purchasing official" means any county official, individual, board, or commission, or his or her or its lawfully designated agent, with constitutional authority to contract or make purchases on behalf of the county;

(7) "Trade-in purchases" means all purchases where offers must be included with the bids of each bidder for trade-in allowance for used commodities; and

(8)(A) "Used or secondhand motor vehicles, equipment, or machinery" means any motor vehicles, equipment, or machinery at least two (2) years in age from the date of original manufacture or that has at least five hundred (500) working hours' prior use or ten thousand (10,000) miles' prior use.

(B)(i) Any purchase of a used motor vehicle, equipment, or machinery shall be accompanied by a statement in writing from the vendor on the bill of sale or other document that the motor vehicle, equipment, or machinery is at least two (2) years in age from the date of original manufacture or has been used a minimum of five hundred (500) hours or driven a minimum of ten thousand (10,000) miles.

(ii) This statement shall be filed with the county clerk at the time of purchase.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 2; 1975, No. 439, § 2; 1975, No. 617, § 2; 1985, No. 844, § 1; A.S.A. 1947, § 17-1602; Acts 2001, No. 219, § 1; 2009, No. 410, § 8; 2009, No. 756, § 21.

Amendments. The 2009 amendment by No. 410 inserted "on the bill of sale or otherwise documenting" in (8)(B)(i).

The 2009 amendment by No. 756 inserted "on the bill of sale or other document" in (8)(B)(i).

14-22-102. Applicability.

(a) It is unlawful for any county official to make any purchases with county funds in excess of twenty thousand dollars ($20,000), unless the method of purchasing prescribed in this chapter is followed.

(b) This chapter shall not apply to any purchases under twenty thousand dollars ($20,000) or to the purchase of commodities set forth in § 14-22-106.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 1; 1975, No. 439, § 1; 1975, No. 617, § 1; 1985, No. 745, § 1; A.S.A. 1947, § 17-1601; Acts 1995, No. 431, § 1; 2003, No. 209, § 1; 2007, No. 249, § 1.

14-22-104. Purchases permitted.

All purchases of commodities made by any county purchasing official with county funds, except those specifically exempted by this chapter, shall be made as follows:

(1) Formal bidding shall be required in each instance in which the estimated purchase price shall equal or exceed twenty thousand dollars ($20,000);

(2) Open market purchases may be made of any commodities where the purchase price is less than twenty thousand dollars ($20,000); and

(3) No purchasing official shall parcel or split any items of commodities or estimates with the intent or purpose to change the classification or to enable the purchase to be made under a less restrictive procedure.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 3; 1975, No. 439, § 3; 1975, No. 617, § 3; 1985, No. 745, § 2; A.S.A. 1947, § 17-1603; Acts 1995, No. 431, § 2; 2003, No. 209, § 2; 2007, No. 249, § 2.

14-22-106. Purchases exempted from soliciting bids.

The following listed commodities may be purchased without soliciting bids:

(1) Perishable foodstuffs for immediate use;

(2) Unprocessed feed for livestock and poultry;

(3) Advanced emergency medical services provided by a nonprofit corporation and proprietary medicines when specifically requested by a professional employee;

(4) Books, manuals, periodicals, films, and copyrighted educational aids for use in libraries and other informational material for institutional purposes;

(5) Scientific equipment and parts therefor;

(6) Replacement parts and labor for repairs of machinery and equipment;

(7) Commodities available only from the federal government;

(8)(A) Any commodities needed in instances in which an unforeseen and unavoidable emergency has arisen in which human life, health, or public property is in jeopardy.

(B) An emergency purchase under subdivision (8)(A) of this section shall not be approved unless a statement in writing is attached to the purchase order describing the emergency necessitating the purchase of the commodity without competitive bidding;

(9) Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency;

(10) Sand, gravel, soil, lumber, used pipe, or used steel;

(11) Used or secondhand motor vehicles, machinery, or equipment, except that a used or secondhand motor vehicle that has been under lease to a county when the vehicle has fewer than ten thousand (10,000) miles of use shall not be purchased by the county when it has been used ten thousand (10,000) miles or more except upon competitive bids as provided in this chapter;

(12) Machinery, equipment, facilities, or other personal property purchased or acquired for or in connection with the securing and developing of industry under the Municipalities and Counties Industrial Development Revenue Bond Law, § 14-164-201 et seq., or any other provision of law pertaining to the securing and developing of industry;

(13) Registered livestock to be used for breeding purposes;

(14) Motor fuels, oil, asphalt, asphalt oil, and natural gas;

(15) Motor vehicles, equipment, machinery, material, or supplies offered for sale at public auction or through a process requiring sealed bids;

(16) All goods and services that are regularly provided to state agencies and county government by the Department of Correction's various penal industries;

(17)(A) New motor vehicles purchased from a licensed automobile dealership located in Arkansas for an amount not to exceed the fleet price awarded by the Office of State Procurement and in effect at the time the county submits the purchase order for the same make and model motor vehicle.

(B) The purchase amount for a new motor vehicle may include additional options up to six hundred dollars ($600) over the fleet price awarded;

(18) Renewal or an extension of the term of an existing contract;

(19) Purchase of insurance for county employees, including without limitation health insurance, workers' compensation insurance, life insurance, risk management services, or dental insurance;

(20) Purchases made through programs of the National Association of Counties or the Association of Arkansas Counties;

(21) Goods or services if the Quorum Court has by resolution approved the purchase of goods or services through competitive bidding or procurement procedures used by:

(A) The federal government or one (1) of its agencies;

(B) Another state; or

(C) An association of governments or governmental agencies including associations of governments or governmental agencies below the state level; and

(22)(A) Goods or services available only from a single source.

(B) A purchase under this subdivision (22) shall be supported with:

(i) Documentation concerning the exclusivity of the single source; and

(ii) A county court order filed with the county clerk that sets forth the basis for the single source procurement.

History. Acts 1965 (1st Ex. Sess.), No. 52, § 6; 1975, No. 439, §§ 5, 6; 1975, No. 617, §§ 5, 6; 1981, No. 306, § 1; 1985, No. 844, §§ 2, 3; A.S.A. 1947, § 17-1606; Acts 1989, No. 879, § 1; 1991, No. 786, § 12; 1993, No. 237, § 1; 2001, No. 219, § 2; 2007, No. 13, § 1; 2009, No. 410, §§ 9, 10; 2009, No. 756, § 22; 2011, No. 1044, § 1; 2013, No. 465, § 1.

Amendments. The 2009 amendment by No. 410 inserted "oil, asphalt, asphalt oil, and natural gas" in (14) and made a

related change; and added (17) through (20).

The 2009 amendment by No. 756 subdivided (8) and inserted "under subdivision (8)(A) of this section" in (8)(B); deleted "or pursuant to the provisions of Arkansas Constitution, Amendment 49 [repealed]" following "under" in (12); inserted "oil, asphalt, asphalt oil, and natural gas" in (14); added (17) and (18); and made related and minor stylistic changes.

The 2011 amendment added (21).

The 2013 amendment added (22).

CHAPTER 23

CLAIMS AGAINST COUNTIES

SUBCHAPTER.

2. Presentment to County Court.

Subchapter 2 — Presentment to County Court

14-23-203. Claims filed with county clerk.

(a) Any person, firm, partnership, corporation, or association having a claim against any county of this state for commodities, services, labor, goods and supplies, except sundry supplies used in the administration of the county offices, and materials, equipment, machinery, or any other item of tangible personal property payable from any county fund shall present a claim for payment to the county clerk of the county in the manner and form as is required by law.

(b) The clerk shall keep and maintain journals in which the claims and transfers shall be recorded, as provided in § 14-23-204, to include a county court claims journal for each fund in which all claims payable from the appropriate fund shall be recorded.

History. Acts 1961, No. 139, § 1; A.S.A. 1947, § 17-715; Acts 2011, No. 614, § 6.

Amendments. The 2011 amendment, in (a), inserted "commodities, services, labor" and substituted "any county fund" for "the county general fund or the county road fund"; deleted former (b)(2); in (b), substituted "journals" for "two (2) dockets," inserted "and transfers," substituted "to include a" for "as follows: A," and "journal' for each fund" for "docket," deleted "shall be recorded" following "which," and substituted "appropriate fund shall be recorded" for "county general fund; and."

14-23-204. Information recorded on dockets.

The journals required under § 14-23-203 shall include the following information with respect to each claim filed:

(1) The claim number, to be listed consecutively;

(2) The date the claim is filed;

(3) The name and address of the person or firm presenting the claim;

(4) The amount of the claim;
(5) The date presented to the county court;
(6) The action of the county court regarding the claim and the date thereof; and
(7) The warrant or check number, and the date of issuance thereof, for payment of the claim, if any.

History. Acts 1961, No. 139, § 2; A.S.A. 1947, § 17-716; Acts 2011, No. 614, § 6.

A.C.R.C. Notes. Acts 2011, No. 614, § 6 omitted pre-existing language that was not intended to be repealed in subdivision (1) of § 14-23-204. A.C.R.C. staff has determined that the omitted pre-existing language "to be listed consecutively" was not intended to be repealed and is set out above to reflect that intent.

Amendments. The 2011 amendment, in the introductory paragraph, substituted "journals" for "dockets" and deleted "columns for recording" following "include"; and inserted "or check" in (7).

14-23-205. Recording in proper journal.

(a)(1) Upon receipt of any claim against the county, the county clerk shall examine the claim and determine the appropriate fund from which it would be payable and if the claim is supported by an appropriation.
(2) The clerk shall record the claim in the appropriate journal as provided under § 14-23-203.
(b) All claims shall be recorded on the date of receipt, and at the time of recording them the clerk shall stamp or write on the statement or bill representing the claim the date of receipt and the number of the claim.

History. Acts 1961, No. 139, § 3; A.S.A. 1947, § 17-717; Acts 2011, No. 614, § 6.

Amendments. The 2011 amendment substituted "the appropriate fund from which it would be payable and if the claim is supported by an appropriation" for "whether, if allowed, it would be payable from the county general fund or county road fund" in (a)(1); in (a)(2), substituted "The clerk" for "Upon making this determination, he" and "journal" for "docket"; and deleted (b)(2).

14-23-206. Approval or disapproval by county court.

(a)(1) The county clerk shall not present a claim later than fifteen (15) days, holidays excepted, from the date on which the claim is received and recorded. Within thirty (30) days from the date on which the claim is presented to the court, the court shall enter an order approving or disapproving the claim.
(2) The action of the court and the date thereof shall be entered in the appropriate journal in which the claim is recorded.
(b) The court shall consider each claim covered by this subchapter in the order in which it appears in the journal being considered. The county court shall not proceed to consider any claim bearing a subsequent number in the journal until an order of approval or disapproval of all preceding numbered claims has been entered.
(c) Any person aggrieved by the order of the court concerning any claim may appeal from the order in the manner provided by law for appeals from orders of the county court.

History. Acts 1961, No. 139, § 4; A.S.A. 1947, § 17-718; Acts 2011, No. 614, § 6.

Amendments. The 2011 amendment substituted "The county clerk shall not present a claim later than fifteen (15) days, holidays excepted, from the date on which the claim is received and recorded" for "No later than fifteen (15) days, holidays excepted, from the date on which any claim is received and recorded, the county clerk shall present it to the county court" in (a)(1); substituted "journal" for "docket" in (a)(2) and twice in (b); and inserted "county" in (c).

14-23-207. Payment of claims generally.

(a) All warrants or checks issued by the county clerk of any county in this state on order of the county court for the payment of any claim in any journal provided under § 14-23-203 shall be issued in the order in which the claim appears in the appropriate journal.

(b) The clerk shall be liable on his or her official bond for any loss suffered by any person due to any violation of the provisions of this subchapter by the clerk.

History. Acts 1961, No. 139, § 5; A.S.A. 1947, § 17-719; Acts 2011, No. 614, § 6.

Amendments. The 2011 amendment, in (a), inserted "or checks" and substituted "in any journal" for "on either of the dockets" and "journal" for "docket"; and inserted "or her" following "his" in (b).

CHAPTER 24

COUNTY WARRANTS

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

14-24-101. Issuance of warrant — Payment.

(a) Whenever any allowance has been approved by any county court, in accordance with §§ 14-23-104 and 14-23-105, when requested by the person in whose favor allowance has been approved or any person authorized to receive it, the county clerk shall issue a warrant or check on the treasurer of the county for the amount of the allowance. The treasurer shall pay it out of cash available in the fund on which the warrant or check is drawn.

(b)(1) If money is not available in the fund on which the warrant or check is drawn, the treasurer, in accordance with § 14-15-805, shall refuse payment of the warrant or check until such time as the funds are available.

(2) In counties using the "batch-redeem" warrant system, the county clerk shall ascertain from county treasurer's records that cash is available in the fund on which the warrant or check is to be drawn before the warrant or check is issued.

History. Acts 1873, No. 31, § 13, p. 53; A.S.A. 1947, § 17-801; Acts 1995, No. 232, § 6; 2011, No. 614, § 7.

Amendments. The 2011 amendment substituted "approved" for "made" twice in (a),

14-24-109. Receipt for public payments.

RESEARCH REFERENCES

Ark. L. Rev. Case Note, Lost in Translation: Combs v. City of Springdale, An Overview of the Ins and Outs of Appeals Procedure for Administrative Decisions by Local Governments, 61 Ark. L. Rev. 351.

14-24-120. Time warrants and checks to be redeemed.

(a)(1) All warrants and checks issued by any county of this state drawn upon the county treasurer shall be valid and redeemable only for a period of one (1) year from the date of issuance.

(2) All warrants and checks issued by a county shall contain on the face of the warrant or check the following words: "This warrant (check) void after one (1) year from date of issuance".

(b)(1) If any county warrant or check is not redeemed or reissued within the time prescribed in subdivision (a)(1) of this section, there is established a presumption that the payee declined its presentment, and it shall be the duty of the county treasurer to cancel the warrant or check and to credit the fund from which the warrant or check is drawn.

(2) If any county warrant or check is returned and is not deliverable to the payee, the warrant or check shall be considered unclaimed and shall be submitted as unclaimed property to the Auditor of State in accordance with the Uniform Disposition of Unclaimed Property Act, § 18-28-201 et seq.

History. Acts 1969, No. 306, §§ 1, 2; A.S.A. 1947, §§ 17-823, 17-824; Acts 1987, No. 269, § 1; 2001, No. 1261, § 1.

14-24-121. Electronic warrants transfer system.

(a) The quorum court of each county may, by ordinance, establish an electronic warrants transfer system directly into payees' accounts in financial institutions in payment of any account allowed against the county.

(b)(1) For purposes of this section counties opting for the electronic warrants transfer system shall establish their own electronic payment method that provides for internal accounting controls and documentation for audit and accounting purposes.

(2) The electronic payment method under subdivision (b)(1) of this section shall be approved by the Legislative Joint Auditing Committee before implementation by the county.

(c) A single electronic warrants transfer may contain payments to multiple payees, appropriations, characters, and funds.

History. Acts 1997, No. 329, § 1; 2009, No. 500, § 2.

Amendments. The 2009 amendment rewrote (b).

Subchapter 2 — Payment by Check

SECTION.
14-24-204. Payment generally.

14-24-204. Payment generally.

(a)(1) It is the intent of this subchapter that after a claim has been properly presented to a county court with a proper certification and itemization thereof, as provided by law, then upon approval the county clerk may cause a check to be prepared in payment of the claim. This check must be accompanied by an attached certification from the clerk stating that the check is for payment of a valid claim against the county, properly presented and allowed, as provided by law, the check being presented to the county treasurer for his or her signature, such check being in duplicate form, allowing for the following information and distribution:

(A) An original check, after being transmitted to the treasurer for his or her signature, will be delivered to the party presenting the claim to the treasurer; and

(B)(i) A duplicate copy of the check, which will provide the printed certification thereon by the clerk to the treasurer and provide for the original signature of the clerk on the certification, will be maintained by the treasurer.

(ii) A duplicate copy of the check may be retained in electronic form rather than paper.

(2)(A) The checks shall be prenumbered and designed in such form that the particular fund affected out of which the check is to be paid is noted thereon.

(B) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(b) In lieu of the provisions of this section pertaining to the issuance of a check in duplicate form, if a county so chooses, the following provisions may apply:

(1) Once the aforementioned claim procedures have been completed, the treasurer may cause a check to be prepared in payment of claims filed with the county court;

(2) Each claim properly recorded and approved for payment by the county court shall be proper certification from the clerk to the treasurer that a valid claim exists; and

(3)(A) The checks shall be prenumbered and so designed that the particular fund affected out of which the check is to be paid shall be noted thereon.

(B) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

History. Acts 1975, No. 22, § 3; 1981, No. 525, § 1; A.S.A. 1947, § 17-827; Acts 2007, No. 75, § 1; 2009, No. 500, § 1; 2011, No. 614, § 8; 2013, No. 451, §§ 1, 2.

Amendments. The 2009 amendment in (a) inserted (a)(1)(B)(ii), redesignated the remaining text of (a)(1)(B) accordingly, and deleted "specific appropriation applicable and" following "that the" in (a)(2); and substituted "particular fund affected" for "specific appropriation applicable, particular fund affected, and claim number" in (b)(3).

The 2011 amendment inserted "then upon approval" in (a)(1); and substituted "recorded" for "docketed" in (b)(2).

The 2013 amendment redesignated former (a)(2) as (a)(2)(A), and added (a)(2)(B); and redesignated former (b)(3) as (b)(3)(A), and added (b)(3)(B).

CHAPTER 25

COUNTY ACCOUNTING AND RESPONSIBLE MANAGEMENT ENTITY

SUBCHAPTER.

Subchapter 1 — County Accounting Law

SECTION.

Publisher's Notes. Due to the enactment of subchapter 2 by Acts 2007, No. 844, the existing provisions of this chapter have been designated as subchapter 1.

14-25-104. Prenumbered checks.

(a) All disbursements of county funds, except as noted in § 14-25-105, which refers to petty cash funds, and § 14-25-112(b)(2), which refers to debit cards issued for the balance of an inmate commissary trust account, are to be made by prenumbered checks drawn upon the bank account of that county official.

(b) The checks shall be of the form normally provided by commercial banking institutions and shall contain as a minimum the following information:

(1) Date of issue;

(2) Check number;

(3) Payee;

(4) Amount both in numerical and written form; and

(5) Signature of authorized disbursing officer of the county office.

(c) The county official shall maintain printers' certificates as to the numerical sequence of checks printed.

(d) The county official shall retain all voided checks for audit purposes.

(e) A county may use computer equipment for check preparation if the use of an automated software program that accomplishes the same purpose as prenumbered checks and other required denotations is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

History. Acts 1973, No. 173, § 4; A.S.A. 1947, § 17-1804; Acts 2009, No. 287, § 1; 2013, No. 451, § 3; 2013, No. 1158, § 1.

Amendments. The 2009 amendment added (d).

The 2013 amendment by No. 451 added (e).

The 2013 amendment by No. 1158 inserted "and § 14-25-112(b)(2), which refers to debit cards issued for the balance of an inmate commissary trust account" in (a).

14-25-105. Petty cash funds.

(a) County officials are permitted to establish petty cash funds, so long as the funds are maintained on the basis set forth in this section.

(b)(1) The establishment of a petty cash fund must be approved by the county quorum court.

(2)(A) In establishing a petty cash fund, a check is to be drawn payable to "petty cash".

(B) That amount may be maintained in the county offices for the handling of small operating expenditures.

(c)(1) A paid-out slip is to be prepared for each item of expenditure from the fund and signed by the person receiving the moneys.

(2) These paid-out slips shall be maintained with the petty cash.

(d) When the fund becomes depleted, the county official may then draw another check payable to "petty cash" in an amount which equals the total paid-out slips issued, and, at that time, the paid-out slips shall be removed from the petty cash fund and utilized as invoice support for the check replenishing petty cash.

History. Acts 1973, No. 173, § 5; A.S.A. 1947, § 17-1805; Acts 2011, No. 614, § 9.

Amendments. The 2011 amendment substituted "a petty cash" for "such a" in (b)(1) and (b)(2)(A); and, in (b)(2)(B), inserted "operating" and deleted "for items such as light bulbs, delivery fees, etc." at the end.

14-25-106. Fixed asset records.

(a)(1) All county officials shall establish by major category and maintain, as a minimum, an itemized listing of all fixed assets owned by, or under the control of, their offices.

(2) Each county official shall maintain the listing unless the quorum court designates one (1) county official or employee of the county to be responsible for maintaining the list for the county.

(3) Each county official shall total the listing by category with a total of all categories. The categories of fixed assets may include without limitation:

(A) Land;
(B) Buildings;
(C) Motor vehicles; and
(D) Equipment.

(4) The listing shall contain as a minimum:

(A) Property item number, if used by the county;
(B) Brief description;
(C) Serial number, if available;
(D) Location of property;
(E) Date of acquisition; and
(F) Cost of property.

(b) Fixed asset records shall constitute a part of the general records of the county and, accordingly, shall be made available for utilization by the auditor at the time of audit.

History. Acts 1973, No. 173, § 6; A.S.A. 1947, § 17-1806; Acts 2009, No. 287, § 2.

Amendments. The 2009 amendment rewrote (a); and in (b), deleted "and equipment" following "asset," substituted "county" for "office," and made a minor stylistic change.

14-25-107. Reconciliation of bank accounts.

(a) All county officials maintaining bank accounts as prescribed in § 14-25-102 shall reconcile, on a monthly basis, the bank balance to the book balance.

(b) The reconciliations shall take the following form:

County of .....
Date .....

Amount Per Bank Statement Dated ..... $ .00

ADD: Deposits in transit (Receipts recorded in Cash Receipts Journal not shown on this bank statement).

DATE	RECEIPT NO.	AMOUNT	
		$ .00	
		.00	
		.00	$ .00

DEDUCT: Outstanding Checks (Checks issued and dated prior to date of bank statement per Cash Disbursements Journal not having yet cleared the bank).

DATE	PAYEE	AMOUNT	
		$ .00	
		.00	
		.00	.00
RECONCILED BALANCE			$ .00

This reconciled balance shall agree to either the cash balance as shown on the official's check stubs running bank balance, or the official's general ledger cash balance, whichever system the official employs.

History. Acts 1973, No. 173, § 7; A.S.A. 1947, § 17-1807; Acts 2009, No. 287, § 3.

Amendments. The 2009 amendment substituted "the bank balance to the book balance" for "their cash receipts and cash disbursement journal to the amount on deposit in banks" in (a).

14-25-108. Prenumbered receipts.

(a)(1) All items of income, except as noted in subsection (b) of this section, are to be formally receipted by the use of prenumbered receipts or mechanical receipting devices such as cash registers or validating equipment.

(2) In the use of prenumbered receipts the following minimum standards shall be met:

(A) Receipts are to be prenumbered by the printer, and a printer's certificate obtained and retained for audit purposes. The certificate shall state the date printing was done, the numerical sequence of receipts printed, and the name of the printer;

(B) The prenumbered receipts shall contain the following information for each item receipted:

(i) Date;

(ii) Amount of receipt;

(iii) Name of person or company from whom money was received;

(iv) Purpose of payment;

(v) Fund to which receipt is to be credited;

(vi) Signature of employee receiving money;

(C) The original receipt should be given to the party making payment. One (1) duplicate copy of the receipt shall be maintained in numerical order in the receipt book and made available to the auditors during the course of annual audit. Additional copies of the receipt are optional with the county office and may be used for any purposes it deems fit; and

(D) All copies of voided receipts shall be retained for audit purposes.

(3) A county may use an electronic receipting system that accomplishes the same purpose as prenumbered receipts if the system is in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

(b) This section shall not apply to the county collector's office in regard to the collection of property taxes. However, this section shall apply to the collector's office for receipting of all other moneys.

History. Acts 1973, No. 173, §§ 8, 9; A.S.A. 1947, §§ 17-1808, 17-1809; Acts 2009, No. 287, § 4; 2013, No. 451, § 4.

Amendments. The 2009 amendment inserted (a)(2)(D).

The 2013 amendment rewrote (a)(3).

14-25-109. County clerk.

(a)(1) The county clerk shall maintain all bank accounts and records of accounts as prescribed by law in reference to the duties of his or her office. In addition, the clerk shall maintain separate records and separate bank accounts for fee accounts and for accounts pertaining to the court.

(2) The bank accounts shall be maintained as prescribed in § 14-25-102, and the provisions of §§ 14-25-103, 14-25-104, 14-25-107, and 14-25-108(a) shall apply to the accounts.

(b)(1) Checks written shall be recorded in a cash disbursement journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursement journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates:

(A) Date of receipt;

(B) Identification of payor;

(C) Receipt number;

(D) Total amount received; and

(E) Classification of receipts.

(2) If using mechanical receipting devices such as cash registers, the cash receipts journal shall indicate the:

(A) Date of collections;

(B) Tape number, if applicable;

(C) Total amount collected; and

(D) Classification of collections.

(d)(1) The cash disbursement journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursement journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e)(1) For each trust and agency account, the clerk shall establish a record showing the beginning balance, receipts, disbursements, and ending balance.

(2) All transactions affecting trust accounts shall be posted on the appropriate individual trust record, in addition to being posted on the cash disbursement journal, or cash receipts journal as prescribed in this section.

(3)(A) Monthly, the clerk shall reconcile these individual detail trust and agency records to the bank balance of trust account.

(B) Copies of such reconciliations shall be maintained and made a part of the records of the office.

(f)(1)(A) The county clerk shall establish and maintain, as a minimum, a listing of all bonded debt and short-term obligations of the county as authorized by §§ 14-72-101 and 14-72-102, § 14-72-201 et seq., § 14-72-301 et seq., and the Local Government Short-Term Financing Obligations Act of 2001, § 14-78-101 et seq.

(B) The listing shall contain as a minimum:

(i) A brief description of the obligation;

(ii) The date of issuance;

(iii) The date of final maturity;

(iv) The rate of interest;

(v) The total amount authorized and issued;

(vi) The total amount retired to date;

(vii) The balance at the beginning of each calendar year;

(viii) The amount authorized and issued during each calendar year;

(ix) The amount retired during each calendar year; and

(x) The balance at the end of each calendar year.

(2) The bonded debt and short-term obligation records constitute a part of the general records of the county clerk's office and shall be made available for utilization by the auditor at the time of audit.

History. Acts 1973, No. 173, § 10; A.S.A. 1947, § 17-1810; Acts 2009, No. 287, § 5.

Amendments. The 2009 amendment rewrote (b) and (c), inserted (d) and (f), and redesignated the remaining subdivision accordingly; and in (e)(2), substituted "cash disbursement journal" for "check disbursement record," substituted "cash receipts journal" for "cash receipts record," and made a minor stylistic change.

14-25-110, 14-25-111. [Repealed.]

Publisher's Notes. These sections, concerning fee-basis sheriffs and fee-basis collectors, were repealed by Acts 2009, No. 287, § 6. The sections were derived from the following sources:

14-25-110. Acts 1973, No. 173, § 11; A.S.A. 1947, § 17-1811.

14-25-111. Acts 1973, No. 173, § 12; A.S.A. 1947, § 17-1812.

14-25-112. Sheriff.

(a) The sheriff, in addition to following the procedures and requirements of §§ 14-25-101 — 14-25-108, shall establish and maintain a cash receipts journal and a cash disbursements journal for each bank account.

(b)(1) Checks written shall be recorded in a cash disbursements journal that indicates the date, payee, check number, and amount of each check written.

(2)(A) A debit card may be issued to a released inmate rather than a check for the balance in his or her account in order to dispose of the inmate's commissary trust account.

(B) If a debit card is issued rather than a check, proper accounting of the funds must still be maintained in compliance with the written procedures established by the Legislative Joint Auditing Committee.

(3) The cash disbursements journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

(A) Date of the receipt;

(B) Identification of payor;

(C) Receipt number;

(D) Total amount received; and

(E) Classification of receipts.

(2) If mechanical receipting devices such as cash registers are used, the cash receipts journal shall indicate the:

(A) Date of collections;

(B) Tape number, if applicable;

(C) Total amount collected; and

(D) Classification of collections.

(d)(1) The cash disbursements journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e) The sheriff shall be required to maintain such books and records as prescribed by this chapter and shall keep all books and records posted on a current basis, making an entry into the cash receipts journal for all items of cash receipts and an entry into the cash disbursements journal for each disbursement made.

History. Acts 1973, No. 173, § 13; A.S.A. 1947, § 17-1813; Acts 2009, No. 287, § 7; 2013, No. 1158, § 2.

Amendments. The 2009 amendment substituted "Sheriff" for "Fee-basis sheriffs" in the section heading; rewrote (a); inserted (b) through (d) and redesignated the remaining subdivision accordingly; and inserted "cash" twice in (e).

The 2013 amendment inserted present (b)(2) and redesignated former (b)(2) as (b)(3).

14-25-113. Collector.

(a) The collector, in addition to following the procedures and requirements of §§ 14-25-101 — 14-25-108, shall establish and maintain a system of bookkeeping that meets the minimum requirements of a cash receipts journal and a cash disbursements journal for the recording and disbursing of tax collections.

(b)(1) Checks written shall be recorded in a cash disbursements journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursements journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

(A) Date of the receipt;
(B) Identification of payor;
(C) Receipt number;
(D) Total amount received; and
(E) Classification of receipts.

(2) If mechanical receipting devices such as cash registers are used, the cash receipts journal shall indicate the:

(A) Date of collections;
(B) Tape number, if applicable;
(C) Total amount collected; and
(D) Classification of collections.

(d)(1) The cash disbursements journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e) The collector shall be required to maintain such books and records as prescribed by this chapter and shall keep all books and records posted on a current basis, making an entry into the cash receipts journal for all items of cash receipts and an entry into the cash disbursements journal for each disbursement made.

History. Acts 1973, No. 173, § 14; A.S.A. 1947, § 17-1814; Acts 2009, No. 287, § 7.

Amendments. The 2009 amendment rewrote (a); inserted (b) through (d) and redesignated the remaining subdivision accordingly; and inserted "cash" twice in (e).

14-25-114. County treasurers.

(a)(1) The county treasurer shall receive and receipt for all moneys payable to the county treasury and pay and disburse them on warrants or checks drawn by order of the county court.

(2) The treasurer shall keep a true and accurate account of all moneys received and disbursed and a true and accurate record of all warrants or checks paid by him or her.

(3) The treasurer shall maintain and issue prenumbered receipts for all moneys paid into the treasury in accordance with § 14-25-108.

(b) The treasurer shall establish and maintain the following accounting practices, in relation to the operations of the office:

(1) The number and date of checks paying warrants where the county is using a system of paying several warrants presented by the bank shall be identified with the warrants in posting to the treasurer's book or record of accounts;

(2) The check number and its date shall be entered on the warrant, and the warrant number and its date shall be entered on the face of the check and on the check stub, as well as the account represented;

(3) Postings to the treasurer's book or record of accounts of warrants and checks shall be under the transaction date on the instruments, not the date the items are entered in the books or records of accounts;

(4) Banks shall be requested to present all warrants held at the end of the month promptly so that they may be included in the treasurer's book or record of accounts in the month to which they pertain;

(5) All funds in the treasurer's book or record of accounts shall be reconciled with the bank monthly. Reconciliations shall be retained and filed with the bank statements;

(6) Clear reference shall be made in the treasurer's book or record of accounts as to the origins of all moneys. This may be by notation citing the origin, date, receipt number, and other pertinent information;

(7) Transfers shall clearly state the fund to which the moneys are being transferred, and the recipient fund shall state the origin of its receipt;

(8) A brief explanation of the computation of the treasurer's commission to provide a clear and permanent record of how the commission was determined shall be maintained;

(9) Corrections to the treasurer's book or records of accounts shall be entered at the time of discovery and under the date of the entry into the treasurer's records. A notation shall be made at the erroneous balance if it is at a previous date, but under no circumstances shall a previous month's balance be changed when it has been brought forward into the succeeding period;

(10) Receipts shall be prepared for all moneys received, but shall never be used to effect any other type of accounting transaction. Bank deposits shall be intact, prompt, and identified as to type of receipts;

(11) Copies of all receipts shall be retained, including copies of voided receipts;

(12) Printers' certificates shall be obtained and kept for each printing order of formally prenumbered receipts; and

(13) All balances on the treasurer's book not belonging to the county and awaiting clearance shall be remitted on or before December 31, or promptly thereafter, as of December 31.

History. Acts 1973, No. 173, § 15; A.S.A. 1947, § 17-1815; Acts 2009, No. 287, § 8; 2011, No. 614, § 10.

Amendments. The 2009 amendment in (b) inserted "or record of accounts" following "treasurer's book" throughout the subsection, deleted the second sentence in (b)(5), which read: "The reconciliation should, preferably, be from the bank statement to the books, since the book balance is what the treasurer is trying to prove.", deleted the second sentence in (b)(7), which read: "Explanations on the treasurer's book as the reason for the transfer will be most helpful", deleted the second sentence in (b)(13), which read: "Generally, these are moneys belonging to agencies of the state." and made minor stylistic changes.

The 2011 amendment inserted "or checks" in (a)(1) and (a)(2).

14-25-115. [Repealed.]

Publisher's Notes. This section, concerning exemption of officials, was repealed by Acts 2009, No. 287, § 9. The section was derived from Acts 1973, No. 173, § 16; A.S.A. 1947, § 17-1816.

14-25-116. Circuit clerk.

(a)(1) The circuit clerk shall maintain all bank accounts and records of bank accounts as prescribed by law in reference to the duties of his or her office. In addition, the circuit clerk shall maintain separate records and separate bank accounts for fee accounts and for accounts pertaining to the court.

(2) The bank accounts shall be maintained as prescribed in § 14-25-102, and the provisions of §§ 14-25-103, 14-25-104, 14-25-107, and 14-25-108(a) shall apply to the accounts.

(b)(1) Checks written shall be recorded in a cash disbursement journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursement journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

(A) Date of receipt;
(B) Identification of payor;
(C) Receipt number;
(D) Total amount received; and
(E) Classification of receipts.

(2) If using mechanical receipting devices such as cash registers, the cash receipts journal shall indicate the:

(A) Date of collections;
(B) Tape number, if applicable;
(C) Total amount collected; and
(D) Classification of collections.

(d)(1) The cash disbursement journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursement journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

(e)(1) For each trust and agency account, the clerk shall establish a record showing the beginning balance, receipts, disbursements, and ending balance.

(2) All transactions affecting trust accounts shall be posted on the appropriate individual trust record, in addition to being posted on the cash disbursement journal, or cash receipts journal as prescribed above.

(3)(A) Monthly, the clerk shall reconcile these individual detail trust and agency records to the bank balance of trust account.

(B) Copies of such reconciliations shall be maintained and made a part of the records of the office.

History. Acts 2009, No. 287, § 10.

14-25-117. County assessor.

(a)(1) The assessor shall maintain a bank account and record of the account for any public funds collected by virtue of his or her office.

(2) The bank account shall be maintained as prescribed in § 14-25-102, and the provisions of §§ 14-25-103, 14-25-104, 14-25-107, and 14-25-108(a) shall apply to the account.

(b)(1) Checks written shall be recorded in a cash disbursement journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursement journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a cash receipts journal that indicates the:

(A) Date of receipt;

(B) Identification of payor;

(C) Receipt number;

(D) Total amount received; and

(E) Classification of receipts.

(2) If using mechanical receipting devices such as cash registers, the cash receipts journal shall indicate the:

(A) Date of collections;

(B) Tape number, if applicable;

(C) Total amount collected; and

(D) Classification of collections.

(d)(1) The cash disbursement journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursement journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

History. Acts 2009, No. 287, § 11.

14-25-118. County judge.

(a)(1) The county judge shall maintain a bank account and record of the account for any public funds collected by virtue of his or her office.

(2) The bank account shall be maintained as prescribed in § 14-25-102, and the provisions of §§ 14-25-103, 14-25-104, 14-25-107, and 14-25-108(a) shall apply to the account.

(b)(1) Checks written shall be recorded in a cash disbursement journal that indicates the date, payee, check number, and amount of each check written.

(2) The cash disbursement journal shall also contain the classification of the disbursement.

(c)(1) Receipts shall be recorded in a receipts journal that indicates the:

(A) Date of receipt;
(B) Identification of payor;
(C) Receipt number;
(D) Total amount received; and
(E) Classification of receipts.

(2) If using mechanical receipting devices such as cash registers, the receipts journal shall indicate the:

(A) Date of collections;
(B) Tape number, if applicable;
(C) Total amount collected; and
(D) Classification of collections.

(d)(1) The cash disbursement journal and the cash receipts journal shall be totaled monthly and on a year-to-date basis.

(2) The cash disbursement journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(3) The cash receipts journal shall be reconciled monthly to total bank deposits as shown on the monthly bank statement.

History. Acts 2009, No. 287, § 12.

Subchapter 2 — Community Sewer System Management

SECTION.

14-25-201. Responsible management entities — Wastewater treatment systems.

(a) As used in this section, "responsible management entity" means a wastewater treatment system service provider organized and operating under this section.

(b) A nonprofit corporation formed for the purpose of providing responsible management of wastewater treatment systems where municipal sewer service is not available shall operate in accordance with § 14-250-113 and have the powers set forth in § 14-250-111.

(c) Any of the following may enter into an agreement to become a responsible management entity for the purpose of providing responsible management of wastewater treatment systems, including community sewer systems and groups of septic systems in a contiguous development, where municipal sewer service is not available:

(1) A political subdivision of the state;

(2) A district or an authority formed under the Joint County and Municipal Solid Waste Disposal Act, § 14-233-101 et seq., or § 8-6-723;

(3) A nonprofit corporation formed for the purpose of providing responsible management of wastewater treatment systems; or

(4) A rural water association.

(d)(1) Any installation, operation, or maintenance performed on a wastewater treatment system on behalf of a responsible management entity shall be done in compliance with the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission as administered by the Arkansas Department of Environmental Quality or its successor and the Department of Health or its successor.

(2) A responsible management entity must also ensure that all appropriate operator licenses are current and any continuing education requirements are fulfilled.

(e)(1) A developer constructing a new wastewater treatment system where municipal sewer service is not available may transfer all liabilities for the wastewater treatment system to a responsible management entity if:

(A) Before the construction of a wastewater treatment system begins, the developer secures written approval of the proposed wastewater treatment system from the Department of Health and complies with all applicable permitting requirements, including stormwater, through the Arkansas Department of Environmental Quality pursuant to the Arkansas Water and Air Pollution Control Act, § 8-4-101 et seq., and the regulations of the Arkansas Pollution Control and Ecology Commission;

(B) Covenants are contained in the deed for the wastewater treatment system requiring payment of reasonable fees by the purchaser to the responsible management entity for ongoing operations and maintenance of the system; and

(C) Ownership of the wastewater treatment system is transferred to the responsible management entity upon completion.

(2) Under no circumstances shall the liability for fraud or negligence on the part of the developer be transferred.

History. Acts 2007, No. 844, § 1.

CHAPTER 26

WORKERS' COMPENSATION

SECTION.

14-26-104. Coverage through private carrier or self-funding.

(a) Counties may provide workers' compensation coverage either through private carriers or through one (1) or more self-funding groups.

(b) Self-funding groups established for this purpose shall meet the following requirements:

(1) Any self-funding group established to provide coverage to counties only shall offer coverage to any county in the state that applies for coverage;

(2) Any self-funding group established to provide coverage for both municipalities and counties shall offer coverage to any municipality or county in the state desiring to participate;

(3) Any group established to provide workers' compensation coverage to counties or to counties and municipalities shall offer the coverage at rates as established and filed with the Workers' Compensation Commission by the organization establishing the self-funding group, and rates for counties participating in any self-funding group shall be revised annually based on the cost experience of the particular county, group of counties, or group of municipalities and counties;

(4)(A) Any self-funding group of participating municipalities or counties that is governed by a board of trustees of elected municipal or county officials shall be subject to the regulations of the Workers' Compensation Commission applicable to self-insured groups or providers.

(B) However, cities and counties shall not be required to enter into an indemnity agreement binding them jointly and severally.

(C) Each board governing a self-funded group shall be permitted to declare dividends or give credits against renewal premiums based on annual loss experience.

(D) All self-funded groups shall obtain excess reinsurance from an admitted or approved insurance company doing business in Arkansas; and

(5) However, in lieu of the reinsurance requirements in subdivision (b)(4)(D) of this section, any self-funded group under this section with one million five hundred thousand dollars ($1,500,000) or more in annually collected premiums may provide excess reserves of twenty percent (20%) of annual premiums by any one (1) of the following ways:

(A) Cash or certificates of deposit in Arkansas banks;

(B) Letters of credit from an Arkansas bank; or

(C) The purchase of reinsurance from the National League of Cities' Reinsurance Company or County Reinsurance, Limited, a national reinsurance facility for county governments.

History. Acts 1985, No. 866, § 2; 1985 (1st Ex. Sess.), No. 34, § 1; 1985 (1st Ex. Sess.), No. 43, § 1; A.S.A. 1947, § 81-1365; Acts 1987, No. 206, § 1; 1999, No. 583, § 1.

CHAPTER 27

COUNTY INTERGOVERNMENTAL COOPERATION COUNCILS

SECTION.

Effective Dates. Acts 2001, No. 784, § 2: Mar. 14, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the existing requirement that county intergovernmental cooperation councils meet at least four (4) times a year is overly burdensome and results in inefficiency in the operation of local governments; this act removes that obstacle and provides more flexibility for the operation of local government; and that until this act becomes effective, local governments will be burdened with the unnecessarily overburdensome provisions of Arkansas Code 14-27-103(a). Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-27-103. Meetings — Notice.

(a) Each county intergovernmental cooperation council shall meet at least one (1) time annually.

(b) All meetings of the council shall be open to the public and shall be held in a public meeting room.

(c) All meetings of the cooperation council shall be at the call of the chair unless a majority of the council's membership shall petition for a meeting to be held.

(d) The secretary of each council shall notify the public and the press of council meetings no later than ten (10) days prior to the date of such meetings.

History. Acts 1987, No. 510, § 3; 2001, No. 784, § 1.

14-27-105. [Repealed.]

Publisher's Notes. This section, concerning the annual report to the General Assembly, was repealed by Acts 2001, No. 916, § 1. The section was derived from Acts 1987, No. 510, § 5; 1997, No. 385, § 1.

SUBTITLE 3. MUNICIPAL GOVERNMENT

CHAPTER 37

CLASSIFICATION OF CITIES AND TOWNS

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-37-107. Advancement of cities and towns according to census.

(a)(1) It shall be the duty of the Governor, the Auditor of State, and the Secretary of State, or any two (2) of them, to ascertain from the federal census and census provided for by law of this state, what cities of the second class are entitled to become cities of the first class and what incorporated towns are entitled to become cities and their proper class.

(2) The Governor shall cause a statement stating the grade to which the city has been advanced to be prepared and transmitted to the mayor of the city or town.

(b) As soon as the statement has been received by the mayor, as provided in subsection (a) of this section, showing that any city or town will be entitled to be organized into a city of the first class or city of the second class at the next regular annual period for the election of municipal officers, it shall be the duty of the proper corporate authority of the city or incorporated town to make and publish bylaws or ordinances necessary to perfect the organization in respect to the election, duties, and compensation of municipal officers, or otherwise.

(c) When a city of the second class becomes a city of the first class, the recorder of the affected city of the second class automatically becomes the city clerk of the city when the change in classification occurs.

History. Acts 1875, No. 1, §§ 3, 4, p. 1; C. & M. Dig., §§ 7452, 7455; Pope's Dig., §§ 9485, 9488; Acts 1943, No. 160, § 1; A.S.A. 1947, §§ 19-209, 19-210; Acts 2005, No. 44, § 1.

14-37-112. Incorporated town may become city of the second class.

(a)(1) Any incorporated town in this state may become a city of the second class by the adoption and publication of an ordinance, duly adopted and published as provided by law, converting the incorporated town into a city of the second class. However, after the adoption and publication of the ordinance, the qualified voters of the town shall vote in any general election or a special election called by the mayor to be held in accordance with § 7-11-201 et seq., in favor of the ordinance.

(2) If a majority of the qualified electors voting in the election vote in favor of the ordinance, a certified copy of the ordinance shall be filed with the Secretary of State. Thereupon the incorporated town shall become a city of the second class.

(b)(1) The officers of the incorporated town, upon filing with the Secretary of State the certified copy of the ordinance, shall immediately become officers of the city of the second class with full authority to proceed, do, and perform any and all things for, and on behalf of, the city of the second class as if elected as officers of the city of the second class. They shall serve as officers for the full period of time for which they were elected or until their successors are elected and qualified.

(2)(A) At the regular time for holding election of officers of incorporated towns, there shall be an election for the election of officers of the city of the second class, who shall hold office as officers of the city of the second class until the next regular time fixed by law for electing officers of a city of the second class or until their successors are elected and qualified.

(B) However, the mayor of the incorporated town which has been raised to a city of the second class may call a special election by proclamation, to be held in accordance with § 7-11-101 et seq., which shall be published by two (2) insertions in a newspaper of general circulation in the county in which the city is located. This special election shall be held for the purpose of electing officers for the city of the second class.

History. Acts 1937, No. 334, § 1; Pope's Dig., § 9484; Acts 1939, No. 211, § 1; 1947, No. 227, § 1; A.S.A. 1947, § 19-215; Acts 2005, No. 2145, § 19; 2007, No. 1049, § 37; 2009, No. 1480, §§ 53, 54.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in the last sentence of (a)(1); and substituted "§ 7-11-101 et seq." for "§ 7-5-103(b)" in the first sentence of (b)(2)(B).

CHAPTER 38

INCORPORATION AND ORGANIZATION OF MUNICIPALITIES

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-38-101. Petition for incorporation.

(a)(1) When the inhabitants of a part of any county not embraced within the limits of any city or incorporated town shall desire to be organized into a city or incorporated town, they may apply, by a petition in writing, signed by the greater of either two hundred (200) or a majority of the qualified voters residing within the described territory, to the county court of the proper county.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated town and have annexed to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated town; and

(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b)(1) The court shall not approve the incorporation of any municipality if any portion of the territory proposed to be embraced in the incorporated town shall lie within five (5) miles of an existing municipal corporation and within the area in which that existing municipal corporation is exercising its planning territorial jurisdiction, unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution.

(2) The planning territorial jurisdiction limitation shall not apply if the area proposed to be incorporated is land upon which a real estate development by a single developer, containing not less than four thousand (4,000) acres, has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents of the community, churches, schools, and commercial and residential facilities, and which has been subdivided into sufficient lots for residential use to accommodate a projected population of not fewer than one thousand (1,000) persons, and for which a statement of record has been filed with the Secretary of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act.

(c) When any petition shall be presented to the court, it shall be filed in the office of the county clerk, to be kept there, subject to the inspection of any persons interested, until the time appointed for the hearing of it.

(d)(1) The court shall, at or before the time of the filing, fix and communicate to the petitioners, or their agent, a time and place for the hearing of the petition, which time shall not be less than thirty (30) days after the filing of the petition.

(2)(A)(i) Thereupon, the petitioners or their agent shall cause a notice to be published in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(ii) If there is no newspaper of general circulation in the county, a notice shall be posted at some public place within the limits of the proposed incorporated town for at least three (3) weeks before the time of the hearing.

(B) The notice shall contain the substance of the petition and state the time and place appointed for the hearing.

History. Acts 1875, No. 1, § 35, p. 1; C. & M. Dig., § 7664; Pope's Dig., § 9786; Acts 1975, No. 635, § 1; 1979, No. 606, § 1; 1983, No. 439, § 1; A.S.A. 1947, § 19-101; Acts 2001, No. 1233, §§ 1, 2; 2001, No. 1831, § 1; 2007, No. 118, § 1.

CASE NOTES

Cited: Brock v. Townsell, 2009 Ark. 224, 309 S.W.3d 179 (2009).

14-38-104. Order of incorporation — Transcript.

(a) The county court shall make out and endorse on the petition an order to the effect that the city or incorporated town as named and described in the petition may be organized if the court shall be satisfied, after hearing the petition, that:

(1) The greater of either two hundred (200) or a majority of the qualified voters residing within the described territory have signed the petition;

(2) The limits have been accurately described and an accurate map or plat of the limits made and filed;

(3) The name proposed for the city or incorporated town is proper and sufficient to distinguish it from others of like kind in the state; and

(4) Moreover, that it shall be deemed right and proper, in the judgment and discretion of the court, that the petition shall be granted.

(b)(1) The order shall be signed and delivered by the court, together with the petition and the map or plat, to the recorder of the county, whose duty it shall be to record it as soon as possible in the proper book or records and to file and preserve in his or her office the original papers, having certified thereon that it has been properly recorded.

(2) It shall also be the duty of the recorder to make out and certify, under his or her official seal, two (2) transcripts of the record. The recorder shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate thereon that a similar transcript has been forwarded to the Secretary of State as provided by this section.

History. Acts 1875, No. 1, § 37, p. 1; C. & M. Dig., § 7666; Pope's Dig., § 9788; A.S.A. 1947, § 19-103; Acts 1995, No. 299, § 1; 2001, No. 1233, § 3.

14-38-112. [Repealed.]

Publisher's Notes. This section, concerning reactivation of inactive city or incorporated town, was repealed by Acts 2011, No. 135, § 1. The section was derived from Acts 1971, No. 711, § 1; A.S.A. 1947, § 19-112; Acts 2005, No. 2145, § 20; 2007, No. 1049, § 38; 2009, No. 1480, § 55.

14-38-113. Reorganization under different form of government.

(a) When any municipality of this state is entitled by law to become reorganized under a different form of municipal government than that under which the municipality is operating, whether the form is the aldermanic form of government, the city manager form of government, or the commission form of government, upon the approval of a majority of the qualified electors of the municipality voting on the issue at an election called therefor, an election to submit the question of becoming organized under any such form of municipal government shall be called and conducted in the manner provided in this section:

(1) When petitions shall be filed with the mayor containing the signatures of qualified electors of the municipality equal in number to fifteen percent (15%) of the aggregate number of votes cast at the preceding general municipal election of all candidates for mayor in the case of a municipality operating under the aldermanic form of government or the commission form of government, and for all candidates for the office of director for the director position for which the greatest number of votes were cast in the case of a municipality operating under the manager form of government, requesting that an election be called to submit the proposition of organizing the municipality under any other form of municipal government authorized by the laws of this state, a special election shall be called by the mayor by proclamation, to be held in accordance with § 7-11-201 et seq. The proclamation shall be

published one (1) time at length in a newspaper having a general circulation in the municipality, and notice of the election shall be published in the newspaper one (1) time a week for two (2) weeks, with the first publication to be not less than fifteen (15) days before the date set for the election;

(2)(A) At the election, the proposition shall be submitted to the electors in substantially the following form:

"FOR the proposition to organize this city under the ..... form of government ..... ☐"

"AGAINST the proposition to organize this city under the ..... form of government ..... ☐"

(B) The election thereupon shall be conducted, the votes canvassed, and the results declared in the same manner as is provided by law with respect to other city elections. The county board of election commissioners shall certify the results of any election to the mayor. The result so certified shall be conclusive and not subject to attack unless suit is brought to contest the certification within thirty (30) days after the certification in the circuit court of the county in which the municipality is situated;

(3)(A) If a majority of the votes cast at the election are in favor of the proposition and no suit is brought to contest the certification of the results of the election within the thirty-day period after the certification by the county board of election commissioners, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and the county clerk of the county in which the municipality is situated. Thereafter, the municipality shall proceed to elect officials of the municipality in the manner and at the time provided by law for the election of municipal officials in municipalities operating under the form of government adopted by the municipality.

(B)(i) However, if a municipality votes to change its form of government and the date of the election to change its form of municipal government is six (6) months or more prior to the next regular general election for municipal officials, the mayor of the municipality by proclamation shall call a special election, to be held in accordance with § 7-11-201 et seq., for the purpose of electing municipal officials under the form of government adopted by the municipality. When the officials are elected, the municipality shall proceed to organize and operate under the newly adopted form of government.

(ii) The mayor's proclamation shall be issued within one (1) business day after the results of the election have been certified to him or her. The proclamation shall be published at least one (1) time a week for two (2) weeks in a newspaper having general circulation within the municipality, and the date of the special election shall be within ninety (90) days from the date of the proclamation calling the special election.

(iii)*(a)* When any municipality changes forms of government in the manner provided in this section, the question of changing the form of government of the municipality shall not again be submitted to the electors thereof until the expiration of four (4) years from the date on which the first officers are elected for the form of government adopted at the election.

(b) If a majority of the qualified electors of a municipality vote against adopting a different form of government, the question shall not again be submitted to the electors thereof for a period of two (2) years after the date of the election in which the proposed change of government in the municipality was rejected; and

(4)(A) Each signature on a petition filed, as provided in this section, shall have been signed within one hundred eighty (180) days prior to the filing of the petition. All signatures not signed within this time shall be void for the purposes of determining the adequate number of signatures required to call an election under this section.

(B) The date of execution of the petitions may be established by affidavit of the person circulating the petition or by the person signing the petition affixing the date of signing immediately following his or her name.

(b) It is the intent and purpose of this section to prescribe a uniform procedure whereby municipalities of this state may submit to the qualified electors of any such municipality the proposition of adopting and becoming organized under any form of municipal government authorized under the laws of this state.

History. Acts 1965, No. 497, § 1-3; 1975, No. 6, § 1; 1980 (1st Ex. Sess.), No. 21, § 1; 1980 (1st Ex. Sess.), No. 70, § 1; A.S.A. 1947, §§ 19-110, 19-111, 19-111n; Acts 2005, No. 2145, § 21; 2007, No. 1049, § 39; 2009, No. 1480, §§ 56, 57.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(1); and substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(3)(B)(i).

14-38-115. Alternative method of incorporation — Petition and election.

(a)(1) In addition to the procedures for incorporating a city or town under §§ 14-38-101 — 14-38-108, the inhabitants of a part of any county not embraced within the limits of any city or incorporated town may apply to the county judge of the proper county to call for an election on the issue of incorporating a city or town and for electing municipal officials if the following conditions are met:

(A) The territory proposed to be incorporated has at least four thousand (4,000) inhabitants according to the most recent federal decennial census; and

(B) The county judge is presented a written petition that:

(i) Meets the requirements of subdivision (a)(2) of this section; and

(ii) Is signed by at least twenty-five percent (25%) of the qualified voters who reside in the territory proposed to be incorporated.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated city or town and have attached to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated city or town; and

(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b) The county judge shall not approve a petition for incorporation of any city or town if any portion of the territory proposed to be incorporated is ineligible under the criteria in § 14-38-101(b).

(c) If a petition for incorporation is presented to the county judge, it shall be filed in the office of the county clerk to be kept there, subject to the inspection of any persons interested, until the time appointed for a public hearing on the petition.

(d)(1) Upon the filing of a petition for incorporation, the county judge shall set the time for a public hearing on the petition and shall communicate to the petitioners or their agent a time and place for the hearing that shall be not less than thirty (30) days after the filing of the petition.

(2)(A) The petitioners or their agent shall publish a notice in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(B) The notice shall contain the substance of the petition and state the time and place set for the public hearing.

(e) The county judge shall hold the public hearing at the time and place determined, and the procedure for a hearing set forth in § 14-38-103 shall be followed in the proceedings concerned in this section to the extent applicable.

(f)(1) After the hearing, if the county judge is satisfied that the procedures for filing the petition for incorporation were followed, that the requirements for signatures under subsection (a) of this section have been met, that the limits of the territory to be incorporated have been accurately described and an accurate map was made and filed, and if the prayer of the petitioner is right and proper, then the county judge shall enter an order that:

(A) Grants the petition to hold an election on the date of the next general election; and

(B) Sets the date of the next general election as the date of the election on the issue of incorporating the city or town and electing officers.

(2) The order shall be recorded by the clerk of the county.

(g)(1)(A) If the county judge orders an election on the issue of incorporation, the county clerk shall notify the county election commission at least sixty (60) days before the election that the issue of incorporation shall also appear on the election ballot for a proposed city or incorporated town.

(B)(i) No later than forty-five (45) days prior to the election, the county clerk shall identify all persons who reside within the territory proposed to be incorporated, and the county clerk shall determine the

names and addresses of all qualified electors residing within that territory.

(ii) The failure to identify all persons residing within the territory proposed to be incorporated or the failure to determine the names and addresses of all qualified electors residing within that territory shall not invalidate or otherwise affect the results of the election.

(C) All qualified electors residing within the territory to be incorporated shall be entitled to vote on the issue of incorporation.

(D) The county clerk shall give notice of the election by publication by at least one (1) insertion in some newspaper having a general circulation in the county.

(2)(A) The county clerk shall prepare a list by precinct of all those qualified electors residing within the territory to be incorporated who are qualified to vote in that precinct and furnish that list to the election officials.

(B) The county clerk shall give notice of the voter registration deadlines at last forty (40) days before the election by ordinary mail to those persons whose names and addresses are on the list.

(3) The election on the issue of incorporation shall be held in accordance with the procedures established for other municipal elections and the ballot for the election shall be printed substantially as follows:

"[ ] FOR THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS.

[ ] AGAINST THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS."

(4) No later than seven (7) days following the election, the county clerk shall:

(A) Certify the election results;

(B) Record the election results in the county records; and

(C) File a certified copy with the county judge.

(h)(1)(A) If a majority of the qualified electors voting on the issue of incorporation in the election vote for the issue, then the county clerk shall no later than seven (7) days following the election:

(i) Certify the election results;

(ii) Record the election results in the county records; and

(iii) File a certified copy with the Secretary of State.

(B) Upon the county clerk's filing of the election results, the county judge shall:

(i) Approve the petition of incorporation as ratified by the voters; and

(ii) Endorse on the petition an order that the city or incorporated town as named and described in the petition is organized and that the petition shall be granted.

(C)(i) The order, petition, and map or plat shall be signed and delivered to the county recorder to record them in the proper records

and to file and preserve in his or her office the original papers, having certified on the papers that they have been properly recorded.

(ii)*(a)* It shall also be the duty of the recorder to make out and certify, under his or her official seal, two (2) transcripts of the record.

(b) The recorder shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate on the transcript that a similar transcript has been forwarded to the Secretary of State.

(D)(i) The incorporation shall be effective on the date the order of the county judge is filed and recorded.

(ii) The election of municipal officers shall be effective upon that date.

(2) If a majority of the qualified electors voting on the issue at the election vote against the issue of incorporation, the incorporation petition is null and void.

(i)(1) If an order of the county judge provides for an election on the issue of incorporation, then the election of officers for the proposed city or town is to take place at the same time as the election on the issue of incorporation at the next general election.

(2) The county clerk shall notify the county election commission at least sixty (60) days before the election that the election of city or town officers shall also appear on the election ballot along with the issue of incorporation of the proposed city or incorporated town.

(3)(A) The county election commission is responsible for holding the first election of officers for the proposed city or town.

(B) The type of officers to be elected and qualified and the election itself shall be conducted in the manner prescribed by law in like cases for a city or town of like size or class.

(4) If the election is held at any other time than that prescribed by law for the regular election of the officers of the city or town of like size or class, the officers elected shall continue in office as long as and in the same manner as if they had been elected at the preceding period of the regular election of officers of the city or town of same size or class.

History. Acts 2005, No. 1237, § 1.

CASE NOTES

Cited: Brock v. Townsell, 2009 Ark. 224, 309 S.W.3d 179 (2009).

CHAPTER 40

ANNEXATION, CONSOLIDATION, AND DETACHMENT BY MUNICIPALITIES

SUBCHAPTER.

SUBCHAPTER 2 — ANNEXATION GENERALLY

CASE NOTES

Constitutionality.

This subchapter is not an unconstitutional attempt to delegate legislative authority. City of Lowell v. City of Rogers, 345 Ark. 33, 43 S.W.3d 742 (2001).

14-40-202. Territory annexed in different judicial district.

(a) In any county in this state in which there is more than one (1) judicial district of its county court with a separate levying or quorum court in and for each of the districts, lands lying in one of the districts may be annexed to a city or incorporated town lying in another of the districts, and be and become a part of the city or incorporated town, if otherwise the lands may be annexed, in the manner provided by law.

(b) For the purposes of this section, the county court of the district in which the city or incorporated town is located is vested with jurisdiction over that portion of the county where lie the lands to be annexed in the hearing and determination of the annexation.

(c) Appeals from any orders therein of the county court shall be taken to the circuit court of the same district, all as in the manner provided by law.

(d)(1) In the event of any such annexation, any lands so annexed shall thereafter be and become, for all purposes provided by law, including local option election status, a part of the same district in which the city or incorporated town is located.

(2) Thereafter the county, circuit, and municipal courts of the district shall have and exercise jurisdiction over the annexed lands and the residents thereof the same as if the lands had been located in the district when it was created.

History. Acts 1963, No. 88, § 1; A.S.A. 1947, § 19-328; Acts 2003, No. 1089, § 1.

A.C.R.C. Notes. Ark. Const. Amend. 80, § 19(B)(2) provided: "District Courts shall have the jurisdiction vested in Municipal Courts, Corporation Courts, Police

Courts, Justice of the Peace Courts, and Courts of Common Pleas at the time this Amendment takes effect. District Courts shall assume the jurisdiction of these courts of limited jurisdiction and other jurisdiction conferred in this Amendment on January 1, 2005. City Courts shall continue in existence after the effective date of this Amendment unless such City Court is abolished by the governing body of the city or by appropriate action of the General Assembly. Immediately upon abolition of such City Court, the jurisdiction of the City Court shall vest in the nearest District Court in the county where the city is located."

Publisher's Notes. Acts 2003, No. 1089, § 2 provided: "This act is retroactive to July 4, 1996."

Cross References. Qualifications of justices and judges, Ark. Const. Amend. 80.

14-40-205. Territory within one-half mile of a state park.

(a) None of the annexation laws of this state shall have any application in the area within one-half (½) mile of the boundaries of any state park located in a county with a population in excess of three hundred fifty thousand (350,000) persons unless the annexation is approved by a majority of the voters residing within such one-half (½) mile area, the area to be annexed is on the opposite side of a navigable river from the state park, or the area to be annexed is on the opposite side of and south of an existing railroad right-of-way from the state park.

(b)(1) Any order of the county court issued in contradiction hereof is void if the order is issued after August 1, 1997.

(2) However, if any county court order was issued after August 1, 1997, annexing an area on the opposite side of and south of an existing railroad right-of-way from a state park, then such county court order is declared valid and not void.

History. Acts 1997, No. 1216, § 1; 1999, No. 1495, § 1.

14-40-206. Territory annexed with prior county permit or approval in use.

If a county had issued a permit or approval for construction, operation, or development before a municipal annexation proceeding begins for a project in the area that the municipality intends to annex, the municipality shall honor and give full effect to county permits and approvals on lands to be annexed.

History. Acts 2013, No. 1506, § 1.

Subchapter 3 — Municipal Annexation of Contiguous Lands

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-40-301. Construction.

CASE NOTES

Cited: Utley v. City of Dover, 352 Ark. 212, 101 S.W.3d 191 (2003).

14-40-302. Authority — Exceptions.

(a) By vote of two-thirds (⅔) of the total number of members making up its governing body, any municipality may adopt an ordinance to annex lands contiguous to the municipality if the lands are any of the following:

(1) Platted and held for sale or use as municipal lots;

(2) Whether platted or not, if the lands are held to be sold as suburban property;

(3) When the lands furnish the abode for a densely settled community or represent the actual growth of the municipality beyond its legal boundary;

(4) When the lands are needed for any proper municipal purposes such as for the extension of needed police regulation; or

(5) When they are valuable by reason of their adaptability for prospective municipal uses.

(b)(1) Contiguous lands shall not be annexed if they:

(A) At the time of the adoption of the ordinance, have a fair market value of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes;

(B) Are lands upon which a new community is to be constructed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970;

(C) Are lands that do not include residents, except as agreed upon by the mayor and county judge; or

(D) Are lands that do not encompass the entire width of public road right-of-way or public road easements within the lands sought to be annexed, except as agreed upon by the mayor and county judge.

(2) Any person, firm, corporation, partnership, or joint venturer desiring to come within this exclusion must have received from the United States Department of Housing and Urban Development a letter of preliminary commitment to fund the new community under one (1) of the federal acts.

(3) If any lands are annexed that are being used exclusively for agricultural purposes, the lands may continue to be used for such purposes so long as the owner desires and the lands shall be assessed as agricultural lands.

(c) However, a municipality having a population of fewer than one thousand (1,000) persons shall not annex in any one (1) calendar year contiguous lands in excess of ten percent (10%) of the current land area of the municipality.

(d)(1) Whenever practicable, a city or incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves.

(2) As used in this section, "enclave" means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town.

History. Acts 1971, No. 298, § 1; 1975, No. 309, § 1; 1975, No. 904, § 1; A.S.A. 1947, § 19-307.1; Acts 2001, No. 1751, § 1; 2013, No. 1072, §§ 1, 2.

Amendments. The 2013 amendment, in (b)(1)(A), inserted "At the time of the adoption of the ordinance" preceding "have" and deleted "at the time of the adoption of the ordinance" preceding "of lands used"; and added (b)(1)(C) and (D), and (d).

RESEARCH REFERENCES

ALR. Validity, Construction and Application of State Statutory Limitations Periods Governing Election Contests. 60 A.L.R.6th 481.

CASE NOTES

Analysis

Agricultural or Horticultural Purposes.
Criteria Generally.
Proper Municipal Purposes.
Time Limitation.

Agricultural or Horticultural Purposes.

Trial court properly found under Ark. Code Ann. subsection 2(b) of this section that the property owner failed to prove that the highest and best use of any parcel within an annexed area was horticultural or agricultural; merely because the owner disagreed with expert testimony and was able to point to conflicting testimony did not demonstrate reversible error. Utley v. City of Dover, 352 Ark. 212, 101 S.W.3d 191 (2003).

Criteria Generally.

Circuit court properly upheld the annexation of four tracts of real property totaling approximately 1,951 acres into the City of Sherwood, Arkansas because the land met two of the Vestal criteria for annexation; the land was held to be sold as suburban property, and it was valuable by reason of its adaptability for prospective municipal purposes. City of Jacksonville v. City of Sherwood, 375 Ark. 107, 289 S.W.3d 90 (2008).

Criteria in subsection (a) of this section apply regardless of whether an annexation proceeding was initiated by a city or

by adjoining landowners. City of Centerton v. City of Bentonville, 375 Ark. 439, 291 S.W.3d 594 (2009).

Proper Municipal Purposes.

Trial court properly found that farm property located within the city limits in the floodway was needed for a proper municipal purpose under subsection (a) of this section, such as for the extension of needed police and fire regulation; in addition, the city's proposed use of property as open space or to expand city's existing park plan was a higher use that also mitigated towards annexation. Chandler v. City of Little Rock, 351 Ark. 172, 89 S.W.3d 913 (2002).

Trial court found that subdivision (a)(4) of this section was met because the lands in question were needed for the purpose of municipal growth and expansion, and the lands were valuable under subdivision (a)(5) of this section by reason of the lands' adaptability for the prospective municipal uses; the trial court properly found that the city was very limited in any areas for expansion within its present boundaries, and the court affirmed the annexation by the city of the lands. Utley v. City of Dover, 352 Ark. 212, 101 S.W.3d 191 (2003).

Trial court properly awarded judgment to appellee in its action to have appellant's annexation of an area of unincorporated and surrounded land declared invalid because appellant did not meet the criteria in subsection (a) of this section; appellant stated plainly that the annexation was necessary to protect its loans, funding, and plans for water service. City of Centerton v. City of Bentonville, 375 Ark. 439, 291 S.W.3d 594 (2009).

Time Limitation.

While the property owners argued that § 14-40-304 did not apply to claims under § 14-40-303, the law was otherwise. The 30-day limitations period set forth in § 14-40-304 extended to challenges to all procedures outlined in § 14-40-301 et seq., and not only to those enumerated in this section. Conrad v. City of Beebe, 2012 Ark. App. 15, 388 S.W.3d 465 (2012).

14-40-303. Annexation ordinance — Election — Procedures.

(a) The annexation ordinance shall:

(1) Contain an accurate description of the lands desired to be annexed;

(2) Include a schedule of the services of the annexing municipality that will be extended to the area within three (3) years after the date the annexation becomes final; and

(3) Fix the date for the election provided in this section.

(b)(1) The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed at the next general election or at a special election. The special election shall be called by ordinance or proclamation of the mayor of the annexing municipality in accordance with § 7-11-201 et seq.

(2)(A) If a majority of the qualified electors voting in the election vote for the annexation, no later than fifteen (15) days following the election, the county clerk shall certify the election results and record the same, along with the description and a map of the annexed area, in the county records, and file a certified copy thereof with the Secretary of State.

(B) The annexation shall be effective, and the lands annexed shall be included within the corporate limits of the annexing municipality thirty (30) days following the date of recording and filing of the description and map, as provided in this section, or in the event an action is filed with the circuit court as provided in § 14-40-304, on the date the judgment of the court becomes final.

(3) If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.

(c)(1)(A) The city clerk shall certify two (2) copies of the annexation ordinance and a plat or map of the area to be annexed and convey one (1) copy to the county clerk and one (1) copy to the county election commission at least sixty (60) days before the election.

(B)(i) No later than forty-five (45) days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.

(ii) The failure to identify all persons residing within the area proposed to be annexed or the failure to determine the names and addresses of all qualified electors residing within that area shall not invalidate or otherwise affect the results of the election.

(C) All of the qualified electors residing within the territory to be annexed shall be entitled to vote in the election.

(D) The city clerk shall give notice of the election by publication by at least one (1) insertion in some newspaper having a general circulation in the city.

(2)(A) The county clerk shall give notice of the voter registration deadlines at least forty (40) days before the election by ordinary mail to those persons whose names and addresses are on the list provided by the city clerk.

(B) The county clerk shall prepare a list by precinct of all those qualified electors residing within the area to be annexed who are qualified to vote in that precinct and furnish that list to the election officials at the time the ballot boxes are delivered.

(3) If the county clerk or the county election commission shall fail to perform any duties required of it, then any interested party may apply for a writ of mandamus to require the performance of the duties. The failure of the county clerk or the county election commission to perform the duties shall not void the annexation election unless a court finds that the failure to perform the duties substantially prejudiced an interested party.

(d) If the annexation is approved and becomes final, the governing body of the city shall, by ordinance, as soon as practical after the annexation, attach and incorporate such annexed territory to and in one (1) or more wards of the city lying adjacent thereto, and the territory so assigned and attached to a ward shall thereafter be considered and become a part thereof as fully as any other part of the city.

(e) From the map or plat provided by city ordinance of the wards assigned, the county clerk shall proceed to ascertain and determine the voters' proper precinct and shall enter the same upon the voter registration records of those inhabitants of the territory so annexed and give notice of that change within thirty (30) days after the adoption of the city ordinance assigning the territory to wards.

(f)(1) In the event that within thirty (30) days of the date that one (1) city calls for an annexation election, another city calls for an annexation election on all or part of the same land proposed to be annexed by the first city, then both annexation elections shall be held, provided that the second city must call for its annexation election to be held on the next available date in accordance with § 7-11-201 et seq. before or after the holding of the first city's election.

(2)(A) If the annexation election held first is approved by the voters, the results of it shall be stayed until the second annexation election is held.

(B)(i) If only one (1) of the annexation elections is approved by the voters, then the city that called that election shall proceed with the annexation of the land.

(ii)*(a)* Except as provided in subdivisions (f)(2)(B)(ii)*(b)* and *(c)* of this section, if both annexation elections are approved by the voters, then a third election shall be held three (3) weeks after the second annexation election. The provisions of § 7-11-201 et seq., governing the procedures and dates on which special elections may be held shall not apply to the third annexation election provided in this subsection.

(b) If the date of the third election falls upon a legal holiday, the election shall be held four (4) weeks after the second annexation election.

(c) If the date of the election under subdivision (f)(2)(B)(ii)*(b)* of this section is a legal holiday, the election shall be held five (5) weeks after the second annexation election.

(iii) Notice of the third election shall be published in a newspaper circulated in the area to be annexed during the period following the second election.

(iv) Only the residents of the area proposed to be annexed by both cities shall vote in the third election.

(v) The issue on the ballot in the third election shall be into which of the two (2) cities the residents of the area want to be annexed.

(vi) The area shall be annexed into the city receiving the most votes in the third election.

(vii) In the event of a tie vote in the third election, the area shall be annexed to the city that had the highest percentage vote in favor of the annexation in the first or second election.

(3) If the city that does not get to annex the area voted on by both cities included land in its annexation election other than the land voted on by both cities, then that land shall be annexed into such city if it is still contiguous to such city after the other land is annexed to the other city, but such land shall remain part of the county if it is not so contiguous.

History. Acts 1971, No. 298, § 2; 1975, No. 309, § 2; A.S.A. 1947, § 19-307.2; Acts 1991, No. 725, § 1; 1993, No. 356, § 1; 1999, No. 639, § 1; 2005, No. 2145, § 22; 2007, No. 557, § 1; 2007, No. 1049, § 40; 2009, No. 420, § 1; 2009, No. 1480, §§ 58, 59.

Amendments. The 2009 amendment by No. 420, in (f)(2)(B), inserted "Except as provided in subdivisions (f)(2)(B)(ii)*(b)*

and *(c)* of this section" in (f)(2)(B)(i), inserted (f)(2)(B)(ii)*(b)* and *(c)*, redesignated the remaining text of (f)(2)(B)(ii) accordingly, and made a related change.

The 2009 amendment by No. 1480 substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b)(1), (f)(1), and (f)(2)(B)(ii)*(a)*.

CASE NOTES

Analysis

Applicability.
Description of Lands.

Applicability.

Although the circuit court erred in finding that subsection (f) of this section was applicable, because it governed the procedures for two cities that have called for annexation elections on all or part of the same land, the circuit court reached the right result in finding that 3360 acres annexed pursuant to an election 15 years earlier became a part of the city of West Memphis. City of Marion v. City of W. Memphis, 2012 Ark. 384, — S.W.3d — (2012).

Description of Lands.

Although the property owners argued that the circuit court erred in refusing to set aside the annexation of their property because the city failed to attach a map and legal description of the property proposed to be annexed in its newspaper publication in violation of subdivision (c)(1)(D) of this section, the language in this section required only that the city give notice of the election, which it did in the instant case. While publication of a map or legal description might have been helpful to the voters, the statute did not require the city to include either. Conrad v. City of Beebe, 2012 Ark. App. 15, 388 S.W.3d 465 (2012).

Cited: Utley v. City of Dover, 352 Ark. 212, 101 S.W.3d 191 (2003).

14-40-304. Judicial review.

RESEARCH REFERENCES

ALR. Validity, Construction and Application of State Statutory Limitations Periods Governing Election Contests. 60 A.L.R.6th 481.

CASE NOTES

Time Limitation.

Challenges to procedures outlined in this subchapter must be made within 30 days of the annexation elections, whether or not such challenges arise from requirements prescribed by this section. Williams v. Harmon, 67 Ark. App. 281, 999 S.W.2d 206 (1999).

While the property owners argued that this section did not apply to claims under § 14-40-303, the law was otherwise. The 30-day limitations period set forth in this section extended to challenges to all procedures outlined in § 14-40-301 et seq., and not only to those enumerated in § 14-40-302. Conrad v. City of Beebe, 2012 Ark. App. 15, 388 S.W.3d 465 (2012).

Cited: Utley v. City of Dover, 352 Ark. 212, 101 S.W.3d 191 (2003).

Subchapter 5 — Annexation of Surrounded Land

SECTION.
14-40-501. Authority — Exceptions.
14-40-503. Procedure for annexation.

SECTION.
14-40-504. Enclaves prohibited.

14-40-501. Authority — Exceptions.

(a)(1)(A)(i) Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality.

(ii) Subdivision (a)(1)(A)(i) of this section shall include situations in which the incorporated limits of a municipality have surrounded an unincorporated area on only three (3) sides because the fourth side is a boundary line with another state, a military base, a state park, or a national forest.

(B) If the incorporated limits of two (2) or more municipalities have completely surrounded an unincorporated area, the governing body of the municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for the annexation of the land surrounded by the municipalities, unless it is agreed by the adjoining municipalities that another of the adjoining municipalities should propose an ordinance calling for the annexation.

(2) The ordinance will provide a legal description of the land to be annexed and describe generally the services to be extended to the area to be annexed.

(b)(1) The unincorporated area to be annexed shall comply with the standards for lands qualifying for annexation which are set forth in § 14-40-302.

(2) Privately owned lakes exceeding six (6) acres of water surface which are used exclusively for recreational purposes and lands adjacent to them not exceeding twenty (20) acres in size which are used exclusively for recreational purposes in relation to the lake shall not qualify for annexation under the provisions of this subchapter.

History. Acts 1979, No. 314, § 1; A.S.A. 1947, § 19-337; Acts 2005, No. 1819, § 1; 2007, No. 150, § 1; 2013, No. 1243, § 1.

Amendments. The 2013 amendment added "a military base, a state park, or a national forest" at the end of (a)(1)(A)(ii).

14-40-502. Hearing — Notice.

CASE NOTES

Due Process

Assuming that the City of Van Buren Council failed to provide landowner notice before the annexation of his property, the violation of this section did not violate the Fourteenth Amendment because he did not show that Arkansas lacked an adequate postdeprivation mechanism to provide him with just compensation for the alleged taking; therefore, landowner's due process claim failed. Cormack v. Settle-Beshears, 474 F.3d 528 (8th Cir. 2007).

14-40-503. Procedure for annexation.

(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, at the next regularly scheduled meeting following the public hearing,

the governing body of the municipality proposing annexation may bring the proposed ordinance up for a vote.

(B) An ordinance shall not be enacted within fifty-one (51) days of a scheduled election to consider annexing all or part of the area in question.

(2) If a majority of the total number of members of the governing body vote for the proposed annexation ordinance, then a prima facie case for annexation shall be established, and the city shall proceed to render services to the annexed area.

(b) The decision of the municipal council shall be final unless suit is brought in circuit court of the appropriate county within thirty (30) days after passage to review the actions of the governing body.

History. Acts 1979, No. 314, § 3; A.S.A. 1947, § 19-339; Acts 2011, No. 1051, § 1.

Amendments. The 2011 amendment added the exception in (a)(1)(A); inserted (a)(1)(B); and substituted "circuit court" for "chancery court" in (b).

14-40-504. Enclaves prohibited.

(a) As used in this section, "enclave" means an unincorporated improved or developed area that is enclosed within and bounded on all sides by a single city or incorporated town.

(b) Whenever practicable, a city or incorporated town shall annex lands that are contiguous and in a manner that does not create enclaves.

History. Acts 2013, No. 1071, § 1.

Subchapter 6 — Annexation Proceedings by Adjoining Landowners

SECTION.

Effective Dates. Acts 1999, No. 128, § 5: Feb. 17, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain lands may be inadvertently and unwisely annexed to municipalities in Arkansas while other lands owned by the same person remain outside the municipal boundaries; that this situation creates an inequitable situation for landowners when part of their lands can become divided among various different jurisdictions for land-use regulation and taxation purposes; and that it is possible for these annexation proceedings to occur at any time and this inequitable situation must be remedied at the earliest opportunity. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-40-601. Application by petition.

(a) When a majority of the real estate owners of any part of a county contiguous to and adjoining any city or incorporated town desires to be annexed to the city or town, they may apply by attested petition in writing to the county court of the county in which the city or town is situated, shall name the persons authorized to act on behalf of the petitioners, and may include a schedule of services of the annexing municipality that will be extended to the area within three (3) years after the date the annexation becomes final.

(b) The "majority of real estate owners" referred to in this section means a majority of the total number of real estate owners in the area affected if the majority of the total number of owners own more than one-half (½) of the acreage affected.

History. Acts 1875, No. 1, § 79, p. 1; C. & M. Dig., § 7462; Pope's Dig., § 9495; Acts 1953, No. 142, § 1; A.S.A. 1947, § 19-301; Acts 2013, No. 1071, § 2.

Amendments. The 2013 amendment rewrote (a); and substituted "means" for "shall mean" preceding "a majority" and deleted "shall" preceding "own more" in (b).

CASE NOTES

Analysis

Contiguous Land.
Notice.

Contiguous Land.

City challenging annexation did not show that the property owners' request to be annexed into a particular city was invalid under this subchapter as the property owners' petition showed that a majority of the property owners of land contiguous to and adjoining the particular city to which the property owners wanted to annex their property approved of the annexation request. City of Dover v. City of Russellville, 346 Ark. 279, 57 S.W.3d 171 (2001).

Notice.

In an action challenging a petition for annexation of certain lands to the city, the circuit court entered an order finding that notice of the annexation was given in accordance withthis section because the published notice accurately described the real property to be annexed and more than fifty percent of the owners within the area to be annexed approved of the annexation. Thompson v. City of Bauxite, 2012 Ark. App. 580, — S.W.3d —, 2012 Ark. App. LEXIS 712 (Oct. 24, 2012).

14-40-604. Proceedings to prevent annexation.

CASE NOTES

Thirty-Day Period.

Where the final order of the county court granting annexation was entered on December 4, 2007, appellants' complaint to challenge the annexation order should have been filed by January 4, 2008; however, the complaint was not filed until July 31, 2008. Because appellants filed their complaint beyond the time allowed by subdivision (a)(1) of this section, the trial court's decision to dismiss the complaint was not erroneous. Thompson v. City of Bauxite, 2012 Ark. App. 580, — S.W.3d —, 2012 Ark. App. LEXIS 712 (Oct. 24, 2012).

14-40-608. Right to detach certain lands after an annexation proceeding.

(a) Within eight (8) years after an annexation proceeding is completed under the provisions of this subchapter and the land remains the boundary of the city or town, the person owning all lands originally annexed into the city or town may be authorized to detach those annexed lands from the city or town under the provisions of this section, so long as the city or town has not provided utility services to those lands.

(b)(1) When a qualifying landowner notifies the municipality that he or she wishes to detach his or her land from the city or town under this section, the governing body of the municipality may pass an ordinance within thirty (30) days to detach the annexed, qualifying land from the municipality.

(2)(A) In order to notify the city or town, the landowner shall file an affidavit with the city clerk or recorder stating that:

(i) His or her land was annexed;

(ii) His or her land is located inside the city or town along the municipal boundary; and

(iii) He or she desires the annexed land to be detached from the municipality.

(B) The affidavit shall be filed along with a certified copy of the plat of the annexed land he or she desires to be detached and a copy of the order of the county court approving the annexation and the resolution or ordinance of the municipal governing body accepting the annexation.

(c) If the municipal governing body approves the ordinance to detach the territory, the clerk or recorder of the municipality shall duly certify and send one (1) copy of the plat of the detached territory, one (1) copy of the ordinance detaching the territory, and one (1) copy of the qualifying affidavit to the county clerk.

(d)(1) The county clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

(2) The county clerk shall forward one (1) copy of the plat of the detached territory and one (1) copy of the ordinance detaching the territory to the Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve them and shall notify all utility companies having property in the municipality of the detachment proceedings.

History. Acts 1999, No. 128, § 1; 2011, No. 740, § 1.

Amendments. The 2011 amendment substituted "eight (8) years" for "three (3) years" in (a).

CASE NOTES

Procedure.

Land of landowners who failed to follow the procedures of this section to detach their land from the City of West Memphis prior to seeking annexation into the City of Marion remained part of West Mem-

phis. The West Memphis annexation of the land 15 years earlier was not void on the ground that the ballot included some land that was not annexed. City of Marion v. City of W. Memphis, 2012 Ark. 384, — S.W.3d — (2012).

Subchapter 12 — Consolidation of Municipalities

Amendments. Acts 2005, No. 2264, § 2: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the procedure for the merger of municipalities is unclear on certain issues; that one (1) unintended consequence of a merger of two (2) or more municipalities is the forcing from office of at least one (1) or more mayors; and that this act is immediately necessary to clarify the procedure for the merger of municipalities and to prevent unfairness to elected officials who are forced out of office because of a merger of two (2) or more municipalities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-40-1201. Petition for consolidation.

(a)(1)(A) Beginning July 1, 1995, when the inhabitants of any city or incorporated town adjoining or contiguous to another smaller municipal corporation of any class in the same county shall desire that the city or incorporated town annex to it or consolidate with it the smaller municipal corporation, they may apply, by a petition in writing signed by a number of qualified electors from each of the municipal corporations equal to not less than fifteen percent (15%) of the total vote cast for the office of mayor in the respective city or town in the last preceding general election, to the city or town council of the larger municipal corporation.

(B) Municipal corporations separated by a river shall be deemed contiguous.

(2) The petition shall:

(A) Describe the municipal corporations to be consolidated; and

(B) Name the persons authorized to act in behalf of the petitioners presenting the petition as provided in this section.

(3)(A) Beginning July 1, 1995, the petitions shall be filed with the city clerk or town recorder of each municipal corporation, who shall determine the sufficiency of the petitions in each municipality.

(B)(i) If any petition is determined insufficient, he or she shall notify the petitioners in writing without delay, and the petitioners shall be permitted ten (10) days from the notification to solicit additional signatures or to prove any rejected signatures.

(ii) If the city clerk or town recorder of the respective municipalities decides the petitions are sufficient, he or she each shall notify the petitioners in writing and shall present the petitions to the city or town council of the larger municipal corporation.

(b)(1)(A) When the petition is presented to the council, the council shall pass an ordinance in favor of the annexation and approving and ratifying the petition.

(B) If the council fails to pass the ordinance required under subdivision (b)(1)(A) of this section, then any interested party may apply for a writ of mandamus to require the performance of the requirement.

(2) In that event, it shall be the duty of the persons named in the petition authorized to act in behalf of the petitioners to file the petition, together with a certified copy of the ordinance, in the office of the county clerk of the county in which the municipal corporations are situated.

History. Acts 1913, No. 318, § 1; C. & M. Dig., § 7471; Pope's Dig., § 9504; A.S.A. 1947, § 19-310; Acts 1995, No. 806, § 1; 1995, No. 1333, § 1; 1997, No. 214, § 1; 2003, No. 1171, § 1.

14-40-1202. Special election called.

(a)(1)(A) Upon presentation of the petition to the county court by the authorized persons, the court shall at once order and call a special election, to be held in accordance with § 7-11-201 et seq., in both of the municipal corporations on the question of the annexation and the name of the proposed consolidated municipality.

(B) The court shall give thirty (30) days' notice of the election by publication one (1) time a week in some newspaper with a bona fide circulation in the territory and by notices posted in conspicuous places in the territory.

(2) The court shall appoint one (1) judge and one (1) clerk in each ward or other division of each municipal corporation, and the mayor and city council of each of the municipal corporations shall select two (2) judges and one (1) clerk for each of the wards or other divisions having

the qualifications of electors, to act as judges and clerks of election within the respective wards.

(3) The court shall fix all polling places at which the voting shall take place.

(b)(1) The election shall be held and conducted in each corporation in the manner prescribed by law for holding elections for cities or incorporated towns, so far as they are applicable. Election expenses are to be paid by the larger city or incorporated town.

(2)(A) All elections held under this subchapter are made legal elections.

(B)(i) The elections shall be governed by and subject to all the laws relating to general elections so far as applicable.

(ii) All judges, clerks, and persons voting in the elections shall be subject to the penalties prescribed by the general election laws of the state for any violation of the general election laws to the same extent as though the elections were specifically included in the general election laws of the state.

(3) The returns of the elections shall be made to the court and the result thereof declared by the court.

(c) In order to provide for an orderly transition of affairs if the petition calls for a delay in the implementation of the consolidation, the consolidation shall not take effect until the date specified in the petition, except that the consolidation shall be delayed not longer than eighteen (18) months from the date the election results are declared by the court.

History. Acts 1913, No. 318, § 1; C. & M. Dig., § 7472; Pope's Dig., § 9505; A.S.A. 1947, § 19-311; Acts 1999, No. 1266, § 1; 2003, No. 1171, § 2; 2005, No. 2145, § 23; 2007, No. 1049, § 41; 2009, No. 1480, § 60.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(1)(A).

14-40-1203. Election results.

(a) At any election held under this subchapter, all qualified electors who are residents of either municipality shall be allowed to vote on the adoption or rejection of the proposed annexation or consolidation and the name of the proposed consolidated municipality.

(b)(1)(A)(i) If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the consolidation or annexation, then the county court shall declare, by an appropriate order, the annexation or consolidation consummated unless the petition has requested a delayed date for implementation of the consolidation.

(ii) If the petition calls for a delay in the implementation of the consolidation and if a majority of the votes cast in each of the respective municipalities is in favor of the consolidation, then the county court shall order the annexation or consolidation consum-

mated on the date specified in the petition, except that the date shall not be more than eighteen (18) months after the date election results are declared by the court.

(B)(i) If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality.

(ii) If a majority of the votes cast in each of the respective municipalities, considered as a separate and distinct unit and without reference to the vote cast in the other, shall not be in favor of the same name of the municipality, then the county court shall declare, by appropriate order, the name of the consolidated municipality to be the name of the larger municipality.

(C)(i) Upon the making of the order, the smaller municipal corporation and the territory comprising it shall, in law, be deemed and be taken to be included and shall be a part of the larger municipal corporation.

(ii) The inhabitants thereof shall in all respects be citizens of the larger municipal corporation.

(2) If a majority of the votes of either municipal corporation shall be against annexation, then the city or incorporated town shall not be again permitted to attempt the consolidation for two (2) years.

History. Acts 1913, No. 318, § 1; C. & M. Dig., § 7473; Pope's Dig., § 9506; A.S.A. 1947, § 19-312; Acts 1999, No. 1266, § 2; 2003, No. 1171, § 3.

14-40-1207. Special election of aldermen or all city officials.

(a)(1)(A) Except as provided under subdivision (a)(1)(B) of this section, the city or town council shall call a special election of aldermen, to be held at such times and places as the council may direct pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq., in the wards of the smaller municipality and for the election of aldermen from any other new wards that may be created by the council out of territory included in the larger city or incorporated town before the annexation, as provided in this subchapter.

(B) If the petition calls for a citywide election for all officials of the new consolidated city or incorporated town, then the city or town council shall call a special election pursuant to a proclamation issued by the mayor in accordance with § 7-11-101 et seq. for all city or town officials to be held at the times and places as it may direct throughout each ward of the consolidated city or incorporated town.

(2) If the implementation of the consolidation of the cities or towns is delayed, the special election for new aldermen or all city officials shall be held at least forty-five (45) days before the effective date of the consolidation.

(b) Each ward of the consolidated city or incorporated town shall have two (2) aldermen, to be elected in the same manner and for the same term as aldermen are elected in cities and incorporated towns.

History. Acts 1913, No. 318, § 3; C. & M. Dig., § 7476; Pope's Dig., § 9509; A.S.A. 1947, § 19-315; Acts 2003, No. 1171, § 4; 2005, No. 2145, § 24; 2007, No. 1049, § 42; 2009, No. 1480, § 61.

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in (a)(1)(A) and (a)(1)(B).

14-40-1208. Existing officers, etc.

(a) The term of office of all officers, aldermen, and employees of the smaller municipality and all laws in force in the smaller municipality shall cease upon and after the consolidation.

(b)(1) Any mayor who is forced from office because of a merger of two (2) or more municipalities under this subchapter is presumed to meet the minimum service period under § 24-12-123.

(2) If the mayor who is forced from office has less than ten (10) years of actual service as mayor, then he or she is entitled to a prorated retirement benefit in an amount equal to the percentage of the mayor's actual amount of service divided by the minimum ten (10) years of service required under § 24-12-123.

History. Acts 1913, No. 318, § 3; C. & M. Dig., § 7476; Pope's Dig., § 9509; A.S.A. 1947, § 19-315; Acts 2005, No. 2264, § 1.

CASE NOTES

Cited: Municipality of Helena-West Helena v. Weaver, 374 Ark. 109, 286 S.W.3d 132 (2008).

Subchapter 20 — Municipal Services

Effective Dates. Acts 1999, No. 779, § 6: Mar. 22, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that certain lands may be inadequately served by the municipality in which it is located while the needed services exist in a bordering municipality; that this creates an inequitable situation for the landowner; that annexation into the other municipality should be allowed in order for the land to be put to its best use; and that this inequitable situation must be remedied at the earliest opportunity. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of

time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1522, § 2: Apr. 12, 2001. Emergency clause provided: "It is found and determined by the General Assembly that certain Arkansas public trusts with lands from military reservations have made requests for services from municipalities under Act 779 of 1999; that the availability of municipal utility services and infrastructure is critical to the development plans for those public trusts; that those public trusts must preserve the current law under Act 779 to meet their needs to fulfill development plans for infrastructure needed to support development of the former military reservation lands; and that it is necessary for this act to have immediate effect to preserve the current state of law under Act 779 for these kinds of entities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2001, No. 1525, § 4: Apr. 12, 2001. Emergency clause provided: "It is found and determined by the Eighty-third General Assembly of the State of Arkansas that Act 779 of 1999 was enacted because certain lands were being inadequately served by the municipality in which they were located while the needed services existed in a bordering municipality and the act authorized a landowner to annex into another municipality for new services to put the land to its best use; that Act 779 lacked sufficient safeguards in its time limits and lacked a fact finding process and decision-maker to determine certain issues; and that these weaknesses need to be addressed and implementation of these safeguards should take effect as soon as possible to eliminate any further situations which must be remedied. It is also determined that it would be inequitable to apply these changes in law to any detachment which was requested prior to its effective date. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Cross References. Land use in adjacent and contiguous cities, § 14-56-306.

14-40-2001. Purpose.

It is the purpose of this subchapter to assist landowners to obtain municipal services by making the services reasonably available. However, nothing in this subchapter shall relieve a landowner from the obligation to pay regular fees and costs for connecting to services or from the obligation to pay the regular cost of the services.

History. Acts 1999, No. 779, § 1.

CASE NOTES

Analysis

Annexation.
Commitment to Provide Services.

Annexation.

Detachment-Annexation Statutes were met in the company's action seeking to have a second city annex its property where the circuit court erred in its interpretation that the first city did not provide water and sewer services to its citizens because the city did not own a water or sewer system. City of Maumelle v. Jeffrey Sand Co., 353 Ark. 686, 120 S.W.3d 55 (2003).

Trial court did not err in finding that landowners' annexation into an adjoining city complied with this section and § 14-40-2002, and the court rejected the city's argument that the necessary services were already available to the landowners; sewer service, as defined in § 14-40-2002(e), was not available to the landowners when they requested such services by the city, and sewer service was necessary to maximize the use of property as provided in the statute. City of Rockport v. City of Malvern, 356 Ark. 393, 155 S.W.3d 9 (2004).

Commitment to Provide Services.

Because the city failed to demonstrate a commitment to providing services within a reasonable time, the trial court did not err in finding that the city did not meet its burden of showing compliance with this section and § 14-40-2002. City of Rockport v. City of Malvern, 356 Ark. 393, 155 S.W.3d 9 (2004).

Cited: City of Rockport v. City of Malvern, 2010 Ark. 449, 374 S.W.3d 660 (2010).

14-40-2002. Annexation into adjoining municipality.

(a)(1) A landowner or group of landowners seeking additional municipal services may have its land detached from the municipality in which it is located and annexed into another municipality that borders the land.

(2) However, before annexation is allowed, the municipality in which the land is located shall have an opportunity to provide the additional services.

(b) The following procedure shall apply:

(1) The landowner or landowners shall file a statement with the municipality in which the land is located listing the additional municipal service or services being sought and stating that:

(A) The municipality is not providing services necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

(B) All the land in the request must compose one (1) area that is contiguous to another municipality;

(C) The additional services are available in another municipality that borders the land subject to the request; and

(D)(i) The municipality is requested to make a commitment to take substantial steps, within one hundred eighty (180) days after the statement is filed, toward providing the additional services and, within each thirty-day period thereafter, to continue taking steps to demonstrate a consistent commitment to provide the service within a reasonable time, as determined by the kind of services requested.

(ii) The commitment must be made in writing to the landowner within thirty (30) calendar days of the filing of the statement, or the

landowner may seek to have the land detached from the municipality and annexed into the other municipality.

(iii) The landowner must take appropriate steps to make the land accessible to the service and comply with reasonable requests of the municipality that are necessary for the service to be provided;

(2) The landowner or landowners may request the annexation of the land into the other municipality and thereby detach the land from the boundaries of the municipality in which the land is currently located if:

(A) The municipality in which the land is located fails to execute a commitment to services within thirty (30) days after the statement is filed; or

(B) The municipality executes the commitment to services but fails to take the action required under subdivision (b)(1)(D) of this section;

(3)(A) The land shall be annexed into the other municipality if, after a request by the landowner or landowners, the governing body of the municipality into which annexation is sought indicates by ordinance, resolution, or motion its commitment to make the services available and its approval of the request for annexation.

(B)(i) The annexation shall be void and the land shall be returned to the original municipality if the annexing municipality fails to take substantial steps within one hundred eighty (180) days after the passage of the ordinance, resolution, or motion to make the services available and, within each thirty-day period thereafter, continues taking steps demonstrating a consistent commitment to make the additional service available within a reasonable time, as determined by the kind of services requested.

(ii) The landowner must have taken appropriate steps to make the land accessible to the service and complied with the reasonable requests of the municipality that are necessary for the service to be provided.

(iii) However, if the requested services are not available within twelve (12) months after the property is accepted by the annexing jurisdiction or substantial steps are not taken to make the services available within this time period, then the detachment and annexation shall be void and all property returned to its original jurisdiction; and

(4) The land shall remain in the original municipality until it is annexed into the other municipality.

(c) Land annexed pursuant to this section shall not be eligible for reannexation under this section for a period of two (2) years.

(d) This section shall apply to residential, commercial, industrial, and unimproved land.

(e) For the purposes of this section, "services" means electricity, water, sewer, fire protection, police protection, drainage and storm water management, or any other offering by the municipality that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property.

History. Acts 1999, No. 779, § 2; 2001, No. 1522, § 1; 2001, No. 1525, §§ 1, 2; 2013, No. 1455, § 1.

A.C.R.C. Notes. Acts 2001, No. 1522, § 1 provided: "If any changes are made to this section during the 2001 Regular Session of the General Assembly, those changes of law shall not be applicable to the land, buildings, or improvements which were a part of any military reservation which has been or in the future is conveyed to an Arkansas public trust by the United States of America or any agency, branch, arm, or department thereof, except that § 14-40-2003 shall be applicable to those lands, buildings, and improvements."

Amendments. The 2013 amendment inserted "additional" in (a)(2), (b)(1), (b)(1)(C), (b)(1)(D)(i), and (b)(3)(B)(i); deleted "available" following "services" in (b)(1)(D)(i) and (b)(3)(B)(i); and in (b)(3)(B)(iii), substituted "available" for "provided, accepted, and in place," substituted "make" for "provide, accept, and have," and substituted "available" for "in place."

CASE NOTES

Analysis

Annexation.
Commitment to Provide Services.
Standing.

Annexation.

The requirements of the Detachment-Annexation Statutes were met in a company's action seeking to have a second city annex its property where the circuit court erred in its interpretation that the first city did not provide water and sewer services to its citizens because the city did not own a water or sewer system. City of Maumelle v. Jeffrey Sand Co., 353 Ark. 686, 120 S.W.3d 55 (2003).

Trial court did not err in finding that landowners' annexation into an adjoining city complied with this section and § 14-40-2001, and the court rejected the city's argument that the necessary services were already available to the landowners; sewer service, as defined in subsection (e) of this section, was not available to the landowners when they requested such services by the city, and sewer service was necessary to maximize the use of property as provided in the statute. City of Rockport v. City of Malvern, 356 Ark. 393, 155 S.W.3d 9 (2004).

In appellant's action to declare an annexation void, a circuit court's finding that appellee and landowners were substantially in compliance with the annexation requirements of this section was proper as appellee provided a sewer line for the landowners to connect to and the landowners took steps towards connecting to the line. City of Rockport v. City of Malvern, 2010 Ark. 449, 374 S.W.3d 660 (2010).

When annexed lands did not compose one area, under subdivision (b)(1) of this section, the annexations were not invalid because separate lands could be annexed at one time. City of Rockport v. City of Malvern, 2012 Ark. 445, — S.W.3d —, 2012 Ark. LEXIS 473 (Nov. 29, 2012).

Annexation of lands from a city to a municipality, at the request of the lands' owners, was not invalid due to being done by resolution, rather than ordinance because (1) this section clearly contemplated annexation by resolution, and (2) a reference in § 14-40-2004(c) to "ordinance" did not govern, as this section was the more specific statute. City of Rockport v. City of Malvern, 2012 Ark. 445, — S.W.3d —, 2012 Ark. LEXIS 473 (Nov. 29, 2012).

Annexation of lands from a city to a municipality, at the request of the lands' owners, was not invalid when the city's streets separated annexed lands from the municipality, for lack of contiguity to the municipality, under subdivision (b)(1)(B) of this section, because a street did not break contiguity, since landowners held all rights to the land not inconsistent with public use of the street. City of Rockport v. City of Malvern, 2012 Ark. 445, — S.W.3d —, 2012 Ark. LEXIS 473 (Nov. 29, 2012).

Commitment to Provide Services.

The trial court erred in finding as a matter of law that a municipality did not make a commitment to provide requested sewer services where the municipality hired an engineering firm to conduct a feasibility study and committed to provide sewer service "as soon as feasibly possible." City of Lowell v. City of Rogers, 345 Ark. 33, 43 S.W.3d 742 (2001).

Because the city failed to demonstrate a commitment to providing services within a reasonable time, the trial court did not err in finding that the city did not meet its burden of showing compliance with this section and § 14-40-2001. City of Rockport v. City of Malvern, 356 Ark. 393, 155 S.W.3d 9 (2004).

Standing.

A city in which property was originally located had standing to argue that another city which annexed the property did not meet the requirements of the annexation statute, as whether the property remained a part of the first city depended upon whether the second city met its obligations under the annexation statute. City of Lowell v. City of Rogers, 345 Ark. 33, 43 S.W.3d 742 (2001).

14-40-2003. No split or island.

(a) In no event shall the provisions of this subchapter allow a municipality to be split in half or to have any of its land separately encircled, thereby creating an island of that city within the boundaries of another city.

(b) Any detachment and annexation occurring that creates a split or island shall be void and all properties returned to their original municipality.

History. Acts 2001, No. 1525, § 3.

A.C.R.C. Notes. Acts 2001, No. 1522, § 1 provided: "If any changes are made to this section during the 2001 Regular Session of the General Assembly, those changes of law shall not be applicable to the land, buildings, or improvements which were a part of any military reservation which has been or in the future is conveyed to an Arkansas public trust by the United States of America or any agency, branch, arm, or department thereof, except that § 14-40-2003 shall be applicable to those lands, buildings, and improvements."

As amended in 2001, subsection (b) began: "After April 12, 2001."

14-40-2004. Hearing in circuit court — Appeal.

(a)(1) The circuit courts of the state shall have exclusive jurisdiction to hear all matters related to this subchapter.

(2) The circuit court of the county in which the municipalities are located or, in the event that the municipalities are located in different counties or judicial districts, the circuit court of the county or judicial district that has within the county's or judicial district's boundaries the smallest of the two (2) municipalities in population according to the latest federal decennial census, shall have exclusive jurisdiction to hear all matters related to this subchapter.

(b)(1)(A) Upon petition of either affected municipality, the landowner or group of landowners, or its representatives, the circuit judge shall hold a hearing or series of hearings related to the provisions of this subchapter.

(B) The municipalities, the landowner who requested annexation, and a landowner who began owning land after the annexation request are parties to the hearings.

(2) The circuit judge shall make findings as are necessary to determine whether there has been substantial compliance or noncompliance with the requirements of this subchapter.

(c) The petition under subdivision (b)(1) of this section shall be filed no later than twenty (20) days after the adoption or rejection of the ordinance, resolution, or motion bringing the subject property into the annexing jurisdiction.

(d) In the event an action is brought in circuit court by any party, the time period for the requested services to be available as provided in § 14-40-2002(b)(3)(B)(iii) shall be tolled until entry of a ruling by the circuit judge and the conclusion of any appeals from that court.

History. Acts 2001, No. 1525, § 3; 2013, No. 1455, § 2.

Amendments. The 2013 amendment added the (b)(1)(A) designation, and added (b)(1)(B); substituted "petition" for "request" in (b)(1)(A); rewrote subsection (c); and substituted "available" for "provided, accepted, and in place" in (d).

CASE NOTES

Annexation.

Annexation of lands from a city to a municipality, at the request of the lands' owners, was not invalid due to being done by resolution, rather than ordinance because (1) § 14-40-2002 clearly contemplated annexation by resolution, and (2) a reference in subsection (c) of this section to "ordinance" did not govern, as § 14-40-2002 was the more specific statute. City of Rockport v. City of Malvern, 2012 Ark. 445, — S.W.3d —, 2012 Ark. LEXIS 473 (Nov. 29, 2012).

14-40-2005. Filing.

(a) All documents produced by landowners, municipalities, or others relating to detachment and annexation as enumerated in this subchapter shall be filed with the circuit clerk with copies served upon the municipality and landowners.

(b)(1) The circuit clerk shall establish a system of filing for these matters upon action's having been taken by a landowner or group of landowners pursuant to the provisions of this subchapter.

(2) The circuit clerk's file shall be considered the official record of all matters and proceedings under this subchapter.

History. Acts 2001, No. 1525, § 3.

Subchapter 21 — Simultaneous Detachment and Annexation

SECTION.

14-40-2101. Simultaneous detachment and annexation by two cities.

(a) When the boundaries of two (2) municipalities are contiguous to and adjoining one another, and one (1) municipality desires to detach and annex territory in another municipality, then the governing body of

the municipality desiring to detach and annex territory may propose an ordinance calling for the simultaneous detachment of the lands from the one (1) municipality and the annexation of the lands into its municipal limits. The municipality desiring to annex land in the adjoining city, after the passage of the ordinance calling for detachment and annexation, shall send the ordinance to the governing body of the city or town in which the lands are located.

(b)(1) The ordinance will provide a legal description of the lands proposing to be detached and annexed and describe generally the reasons for proposing the action.

(2) The governing body of the city or town in which the lands are located shall conduct a public hearing within sixty (60) days of the proposal of the ordinance calling for the detachment and annexation.

(3) At least fifteen (15) days prior to the date of the public hearing, the governing body of the proposing municipality shall publish a legal notice setting out the legal description of the territory proposed to be detached and annexed. Municipal officials of the proposing city or town, officials of the city or town in which the lands are located, and property owners within the area proposed to be detached and annexed may appear at the public hearing to present their views on the proposal.

(c)(1) At the next regularly scheduled meeting following the public hearing, the governing body of the municipality in which the lands are located may bring the proposed ordinance up for a vote to concur in the detachment and annexation.

(2) If a majority of the total number of members of the governing body vote for the proposed detachment and annexation ordinance, then a prima facie case for detachment and annexatiion shall be established, and the proposing municipality shall proceed to render services to the newly annexed area.

(d) The decision of the municipal governing bodies shall be final unless suit is brought in the circuit court of the appropriate county within thirty (30) days after passage of the ordinance to review the mutual actions of the governing bodies.

(e)(1) As soon as the ordinance proposing the detachment and annexation is final, the territory shall be deemed and taken to be a part and parcel of the limits of the city or town annexing it, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or town.

(2) The governing body of the annexing city or town shall direct the municipal clerk or recorder to duly certify one (1) copy of the plat of the annexed territory and one (1) copy of the proposing ordinance as adopted by both governing bodies to the county clerk.

(3) The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.

History. Acts 1999, No. 988, § 1.

Subchapter 22 — Annexation and Detachment Transparency Act

14-40-2201. Annexation and provision of scheduled services.

(a)(1) Beginning March 1, 2014, and each successive year thereafter, the mayor or city manager of a city or incorporated town shall file annually with the city clerk or recorder, town recorder, and county clerk a written notice describing any annexation elections that have become final in the previous eight (8) years.

(2) The written notice shall include:

(A) The schedule of services to be provided to the inhabitants of the annexed portion of the city; and

(B) A statement as to whether the scheduled services have been provided to the inhabitants of the annexed portions of the city.

(b) If the scheduled services have not been provided to the new inhabitants within three (3) years after the date the annexation becomes final, the written notice reporting the status of the extension of scheduled services shall include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with annexation elections if there are pending scheduled services that have not been provided in three (3) years as prescribed by law.

History. Acts 2013, No. 1502, § 1.

14-40-2202. Inhabitants of annexed area.

(a) In all annexations under § 14-40-303 and in accordance with § 14-40-606, after the territory declared annexed is considered part of a city or incorporated town, the inhabitants residing in the annexed portion shall:

(1) Have all the rights and privileges of the inhabitants of the annexing city or incorporated town; and

(2)(A) Be extended the scheduled services within three (3) years after the date the annexation becomes final.

(B) The mayor of the municipality shall file a report with the city clerk or recorder, town recorder, and county clerk of the extension of scheduled services.

(b) If the scheduled services have not been extended to the area and property boundaries of the new inhabitants within three (3) years after the date annexation becomes final, the written notice reporting the status of the extension of scheduled services shall:

(1) Include a written plan for completing the extension of services and estimated date of completion; and

(2) Include a statement of the rights of inhabitants to seek detachment.

(c) A city or incorporated town shall not proceed with any additional annexation elections if there are pending scheduled services that have not been extended as required under this subchapter.

History. Acts 2013, No. 1502, § 1.

CHAPTER 41

ADDITIONS TO CITIES AND INCORPORATED TOWNS

SUBCHAPTER.
3. Reduction to Acreage.

Subchapter 3 — Reduction to Acreage

SECTION.
14-41-305. Notice of petition.
14-41-306. Hearing and order.

14-41-305. Notice of petition.

(a) Upon the filing of a petition, the county court shall immediately cause notice to be published for two (2) consecutive weeks by at least two (2) insertions in some newspaper published in the county having a bona fide circulation therein, stating the substance contained in the petition.

(b) The county court shall immediately provide the filed petition to the city clerk of the city or incorporated town in which the property is located.

History. Acts 1929, No. 91, § 5; Pope's Dig., § 9518; A.S.A. 1947, § 19-411; Acts 2007, No. 14, § 1.

14-41-306. Hearing and order.

(a) The county court shall hear the petition at the first day of the court held after publication of the notice filed under § 14-41-305 if not continued for cause and shall, upon proper showing, order that the addition or division, or part thereof, be reduced to acreage.

(b) If the county court issues an order pursuant to subsection (a) of this section that the addition or division be reduced to acreage, then the addition or division shall thereafter be assessed as acreage for taxation of all kinds.

(c) The county court shall immediately provide the filed order to the city clerk of the city or incorporated town in which the property is located.

History. Acts 1929, No. 91, § 6; Pope's Dig., § 9519; A.S.A. 1947, § 19-412; Acts 2007, No. 14, § 2.

CHAPTER 42

GOVERNMENT OF MUNICIPALITIES GENERALLY

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

Effective Dates. Acts 2005, No. 163, § 2: Feb. 15, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is currently no statute that authorizes the removal of a municipal official who pleads guilty or nolo contendere to, or is found guilty of, a federal offense. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1185, § 21: Oct. 2, 2011.

14-42-103. Vacancies in municipal offices.

(a)(1) Vacancies in municipal offices that are authorized by state law to be filled by appointment by the city or town governing body require a majority vote of the remaining members of the governing body.

(2) However, a majority of a quorum of the whole number of the governing body is required to fill the vacancy.

(b)(1) The governing body may appoint any qualified elector, including members of a governing body, to fill the vacancy.

(2) However, a member of the governing body shall not vote on his or her own appointment.

(c) This section does not apply to circumstances prescribed under § 14-43-501(a) or § 14-43-411(a).

History. Acts 1977, No. 9, §§ 1, 2; 1981, No. 303, § 2; A.S.A. 1947, § 19-905.1; Acts 2009, No. 185, § 1.

Amendments. The 2009 amendment redesignated (a) and (b), added (c), and made minor stylistic changes.

14-42-104. [Repealed.]

Publisher's Notes. This section, concerning vacancies in certain alderman positions, was repealed by Acts 2009, No. 385, § 1. The section was derived from Acts 1977, No. 9, §§ 1, 2; 1981, No. 303, § 2; A.S.A. 1947, § 19-905.1; Acts 2005, No. 2145, § 25; 2007, No. 1049, § 43; 2007, No. 188, § 1.

14-42-106. Oath and bond required.

(a) All officers elected or appointed in any municipal corporation shall take the oath or affirmation prescribed for officers by the Arkansas Constitution.

(b)(1) Except as provided in subdivision (b)(2) of this section, the officers shall take their oaths before the Secretary of State or his or her official designee, any justice or judge, judge of the county court, clerk of the county court, clerk of the circuit court, or justice of the peace.

(2) The aldermen also may take their oaths before the mayor of the municipality.

(c) The aldermen or council of a municipal corporation may require from the officers, as they think proper, a bond with good and sufficient security and with a proper penalty for the faithful discharge of their office and duty.

(d) The council or aldermen shall have the power to declare the office of any elected or appointed person vacant who shall fail to take the oath of office or give the bond required in this section within ten (10) days of the first day of January after his or her election or within ten (10) days after he or she has been notified of his or her appointment. In such case, the council or aldermen shall proceed to appoint as in other cases of vacancy.

History. Acts 1875, No. 1, § 73, p. 1; C. & M. Dig., § 7517; Pope's Dig., § 9577; A.S.A. 1947, § 19-904; Acts 1999, No. 650, § 1; 2007, No. 601, § 1.

14-42-107. Interest in offices or contracts prohibited.

(a)(1) No alderman, member of any council, or elected official of a municipal corporation, during the term for which he or she has been elected or one (1) year thereafter, shall be appointed to any municipal office that was created or the emoluments of which have been increased during the time for which he or she has been elected except to fill a vacancy in the office of mayor, alderman, clerk, clerk-treasurer, recorder, or recorder-treasurer.

(2) No alderman or council member shall be appointed to any municipal office, except in cases provided for in §§ 14-37-101 et seq. —

14-61-101 et seq., during the time for which he or she may have been elected.

(b)(1) No alderman, council member, official, or municipal employee shall be interested, directly or indirectly, in the profits of any contract for furnishing supplies, equipment, or services to the municipality unless the governing body of the city has enacted an ordinance specifically permitting aldermen, council members, officials, or municipal employees to conduct business with the city and prescribing the extent of this authority.

(2) The prohibition prescribed in this subsection shall not apply to contracts for furnishing supplies, equipment, or services to be performed for a municipality by a corporation in which no alderman, council member, official, or municipal employee holds any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not aldermen or council members.

History. Acts 1875, No. 1, § 86, p. 1; C. & M. Dig., § 7520; Pope's Dig., § 9580; Acts 1963, No. 182, § 1; 1981, No. 485, § 1; A.S.A. 1947, § 19-909; Acts 2003, No. 1299, § 1; 2009, No. 403, § 1.

Amendments. The 2009 amendment inserted "except to fill a vacancy in the office of mayor, alderman, clerk, clerk-treasurer, recorder, or recorder-treasurer" in (a)(1).

14-42-110. Appointment and removal of department heads.

CASE NOTES

Cited: Weaver v. Collins, 2010 Ark. App. 707, 379 S.W.3d 582 (2010).

14-42-111. [Repealed.]

Publisher's Notes. This section, concerning mayor of city of the second class or town unable to perform duties, was repealed by Acts 2013, No. 753, § 4. The section was derived from Acts 1883, No. 120, § 1, p. 297; C. & M. Dig., § 7673; Pope's Dig., § 9795; A.S.A. 1947, § 19-910.

14-42-112. Municipal attorneys for cities of the second class or towns.

(a)(1) All cities of the second class and incorporated towns within the State of Arkansas may elect a municipal attorney at the time of the election of other officers of these cities of the second class and incorporated towns, if it is not established by ordinance that the office of the city attorney will be appointed.

(2)(A) All municipal attorneys elected under the provisions of this section shall be regularly licensed attorneys of this state.

(B) When no attorney resides within the limits of the city or town or when no resident attorney has been elected as municipal attorney, the mayor and city or town council may appoint any regularly licensed attorney of this state to serve as the municipal attorney.

(b) Any municipal attorney elected or appointed under the provisions of this section shall subscribe to the oath of office as all other officers of these cities or towns.

(c) All municipal attorneys are authorized to file information for the arrest of any person for the violation of any ordinance of the city or town or of the laws of this state which are violated within the limits of the city or town.

(d)(1) The duties of the municipal attorney shall be to represent the city or town in all actions, both civil and criminal.

(2)(A) It shall be the duty of the municipal attorney to:

(i) Advise with all city or town officials at any time needed;

(ii) Prepare all legal papers, blank forms, etc.;

(iii) File a complete report of his or her work with the city or town council at the end of each year; and

(iv) If requested to do so, furnish all information in his or her possession to the state courts for the prosecution of cases in the state courts.

(B) Nothing in this section shall prohibit the city or town council from prescribing other duties, and they are authorized to prescribe such other duties as they desire which shall be done by proper ordinance by the council.

(e) The term of office for an elected municipal attorney shall be four (4) years.

History. Acts 1923, No. 153, §§ 1-5; Pope's Dig., §§ 9752-9756; Acts 1975, No. 161, §§ 1, 2; A.S.A. 1947, §§ 19-911 — 19-915; Acts 1993, No. 1306, § 8; 1995, No. 1256, § 20; 1995 (1st Ex. Sess.), No. 13, § 4; 1997, No. 645, § 1; 2005, No. 133, § 1.

14-42-113. Salaries of officials — Salary withheld if professional license or registration suspended.

(a)(1) Except as provided in subsection (b) of this section, the salary of an official of a city of the first class, a city of the second class, or an incorporated town may be increased during the term for which the official has been elected or appointed and may be decreased during the term only if requested by the official.

(2) When any city official whose salary was decreased pursuant to subdivision (a)(1) of this section leaves office before the expiration of his or her term, his or her successor shall receive a salary not less than the salary for the office immediately before its being decreased pursuant to subdivision (a)(1) of this section.

(b)(1) The salary of an elected official of a city of the first class, a city of the second class, or an incorporated town shall be withheld if:

(A) The elected official is required to hold a professional license or registration as a qualification of his or her position; and

(B) The elected official's professional license or registration is suspended.

(2) Upon suspending the professional license or registration of an elected official of a city of the first class, a city of the second class, or an

incorporated town, the agency, board, commission, or other authority that issues the professional license or registration at issue shall notify in writing the appropriate municipality or incorporated town.

(3) Upon learning that an elected official's required professional license or registration has been suspended, the governing body of a city of the first class, city of the second class, or incorporated town may cease paying the elected official's salary from the date of suspension.

(4)(A) Upon restoration of his or her professional license or registration, an elected official of a city of the first class, a city of the second class, or an incorporated town may petition the governing body of the city or town for a resumption of salary, and the governing body shall initiate measures to ensure that the elected official's salary is resumed.

(B) An elected official who receives an order for the resumption of his or her salary under subdivision (b)(4)(A) of this section shall not receive his or her salary for the period that the salary was withheld.

(5)(A) As used in this subsection, "salary" means the compensation paid to an elected official of a city of the first class, a city of the second class, or an incorporated town for service in that position.

(B) "Salary" includes without limitation any benefits provided to the elected official by virtue of his or her position, including without limitation:

(i) Health insurance;

(ii) Retirement contributions; and

(iii) Retirement benefits.

History. Acts 1969, No. 249, § 1; A.S.A. 1947, § 19-907.1; Acts 2001, No. 563, § 1; 2011, No. 199, § 1; 2013, No. 523, § 1.

Amendments. The 2011 amendment redesignated former (a) as present (a)(1); inserted the exception in (a)(1); redesignated former (b) as present (a)(2); and added present (b).

The 2013 amendment, in (a)(2), substituted "subdivision (a)(1)" for "subsection (a)(1)" and "before" for "prior to"; and rewrote (b)(3) and (b)(4)(A).

14-42-115. Volunteer firefighter or volunteer police officer on governing body.

(a)(1) It is lawful for a volunteer firefighter or a volunteer police officer in any city of the first class, city of the second class, or incorporated town in this state to seek election to, and if elected, to serve as a member of the city council or other governing body of the city or town.

(2) This service shall not be deemed a conflict of interest and shall not be prohibited by the civil service regulations of any city or town.

(b) A person may serve and receive compensation as a member of the governing body of any city of the first class, city of the second class, or incorporated town and simultaneously serve as a volunteer firefighter or a volunteer police officer and receive compensation as a firefighter or a police officer.

(c) The provisions of this section shall not apply after August 13, 1993, to any city having a city administrator form of government.

History. Acts 1981, No. 124, § 1; 1981, No. 440, § 1; A.S.A. 1947, §§ 19-943, 19-944; Acts 1993, No. 476, § 1; 2003, No. 1048, § 1.

14-42-117. Election of retirement benefits.

CASE NOTES

Analysis

Constitutionality.
Construction With Other Laws.

Constitutionality.

There was no violation of the prohibition against ex post facto laws in the application of § 14-42-117 to a man whose right to retirement benefits did not vest prior to the enactment of the statute. Robinson v. Taylor, 342 Ark. 459, 29 S.W.3d 691 (2000).

Construction With Other Laws.

A mayor's right to retirement benefits did not vest until she completed 10 years of service to the city, which occurred after the enactment of this section, and, therefore she forfeited her right to receive the retirement benefit provided by § 24-12-123 when she elected to receive a lump-sum payment from a plan offered by the city. Robinson v. Taylor, 342 Ark. 459, 29 S.W.3d 691 (2000).

14-42-118. Removal of municipal officer for federal offense.

(a) Upon petition by any citizen of the municipality or the prosecuting attorney to the circuit court having jurisdiction, any municipal officer who pleads guilty or nolo contendere to or is found guilty of a federal offense involving embezzlement of public funds, bribery, forgery, or other infamous crime or criminal conduct amounting to a felony, malfeasance, misfeasance, or nonfeasance in office shall be removed from office.

(b) The circuit clerk shall transmit to the Governor and city clerk of the municipality a certified transcript of the removal judgment of the court.

(c) The vacancy shall be filled as may be prescribed by law at the time the vacancy occurs.

History. Acts 2005, No. 163, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2005 Arkansas General Assembly, Local Government, 28 U. Ark. Little Rock. L. Rev. 373.

14-42-119. Removal of certain elected municipal officials.

(a) A person who holds an elected office in a municipality for a term of four (4) years in a mayor-council form of government is subject to removal from the office by the electors qualified to vote for a successor of the incumbent.

(b) The procedure for the removal of a person holding the office is as follows:

(1)(A) When a petition requesting the removal of an officer under this section, signed by a number of qualified electors equal to twenty-five

percent (25%), is filed with the county clerk, the county clerk shall determine the sufficiency of the petition within ten (10) days from the date of the filing.

(B) A petition shall be filed by 12:00 noon not more than one hundred five (105) days nor less than ninety-one (91) days before the next general election following the election at which the officer was elected;

(2) If the petition is deemed sufficient, the county clerk shall certify it to the county board of election commissioners;

(3) At the election, the question shall be submitted to the qualified electors in substantially the following form:

"FOR the removal of (name of officer) ..... from the office of (name of office) .....[ ]

AGAINST the removal of (name of officer) ..... from the office of (name of office) .....[ ]"; and

(4)(A)(i) If a majority of the qualified electors voting on the question at the election vote for the removal of the officer, a vacancy shall exist in the office.

(ii) The officer shall vacate the office immediately upon certification of the election.

(B) If a majority of the qualified electors voting on the question at the election vote against the removal of the officer, the officer shall continue to serve during the term for which he or she was elected.

History. Acts 2009, No. 362, § 1; 2011, No. 1028, § 1; 2011, No. 1185, § 17.

Amendments. The 2011 amendment by No. 1028 substituted "county clerk" for "city clerk" in (b)(1)(A) and (b)(2); and added (b)(4)(A)(ii).

The 2011 amendment by No. 1185, in (b)(1)(B), substituted "one hundred five (105)" for "ninety (90)" and "ninety-one (91)" for "seventy (70)."

14-42-120. Monthly, bimonthly, biweekly, weekly, and hourly salaries for municipal employees.

(a)(1)(A) Except for those municipalities that operate principally on a scholastic year, or on a part-time basis, or where salaries or personal services are specifically established for a period less than one (1) year, all salaries established by the General Assembly or the governing body of the municipality shall be considered to be a maximum amount to be paid for a twelve-month payroll period.

(B) A greater amount than that established for the maximum annual salary of any municipal official or employee shall not be paid to the employee during any twelve-month payroll period, nor shall more than one-twelfth (1/12) of the annual salary be paid to an employee during a calendar month unless otherwise authorized.

(2) The limitations set out in this section may be converted to biweekly or weekly increments of one-twenty-sixth (1/26) or one-fifty-second (1/52) of the maximum annual salary.

(3) For complying with federal requirements, upon approval of the clerk-recorder or treasurer of the municipality, the maximum annual

salaries may be converted to hourly rates of pay for positions established on the basis of twelve (12) months or less if authorized by law.

(b) The remuneration paid to an employee of the municipality may exceed the maximum annual salary as authorized by the General Assembly or governing body of the municipality as follows, and the following shall not be construed as payment for services or as salary as contemplated by Arkansas Constitution, Article 16, § 4:

(1) Overtime payments as authorized by law;

(2) Payment of a lump sum to a terminating employee, to include lump-sum payments of sick leave balances upon retirement as provided by law;

(3) Payment for overlapping pay periods at the end of a fiscal year as defined or authorized by law;

(4) Payment for the biweekly twenty-seven (27) pay periods; and

(5) Payments for incentive, certificate, holiday, or working out of classification.

History. Acts 2013, No. 572, § 2.

Subchapter 2 — Elections

Effective Dates. Acts 2001, No. 1789, § 12: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that Amendment 80 to the Arkansas Constitution becomes effective on July 1, 2001; that this implements the nonpartisan election of justices and judges as mandated by Amendment 80; and that to effectively implement Amendment 80, this act should become effective on July 1, 2001. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1185, § 21: Oct. 2, 2011.

14-42-201. Election of municipal officers generally.

(a) The general election for the election of municipal officials in all cities and incorporated towns shall be held on the Tuesday following the first Monday in November.

(b) All municipal officials of the cities and towns of the State of Arkansas shall take office January 1 of the year following their election.

(c)(1) In addition to other residency requirements imposed by state law for municipal office holders, candidates for the positions of mayor, clerk, recorder, or treasurer must reside within the corporate municipal limits at the time they file as candidates and must continue to reside within the corporate limits to retain elective office.

(2) In cities of the first class and cities of the second class, candidates for the position of alderman shall reside within the corporate limits and their respective wards at the time they file as candidates for alderman and when holding that office.

History. Acts 1949, No. 307, §§ 1-3; A.S.A. 1947, §§ 19-902.1 — 19-902.3; Acts 1995, No. 555, § 1; 1995, No. 671, § 1; 1999, No. 642, § 1; 2001, No. 1833, § 1.

Publisher's Notes. Subsection (d) was redesignated as (c) at the direction of the Arkansas Code Revision Commission. Former subsection (c) was repealed prior to the 2001 amendment.

CASE NOTES

Residency Requirements.

Where a mayor-elect owned a home outside of the city limits, but rented a residence within the city limits, the circuit court did not clearly err when it found that the state failed to meet its burden of proving that the mayor-elect did not reside within the city limits, as required under subdivision (c)(1) of this section. For the purposes of subsection (c)(1), the legislature intended for "reside" to mean live or be physically present. State v. Jernigan, 2011 Ark. 487, 385 S.W.3d 776 (2011).

In determining the residency of voters and public officials, the Supreme Court of Arkansas considers (1) whether a person is physically present in a particular location, or (2) whether a person intends to establish a domicile in a particular location. In other words, if a candidate is unable to establish residency by showing physical presence in the requisite location, the court allows a candidate to establish residency by showing domiciliary intent in the requisite location. State v. Jernigan, 2011 Ark. 487, 385 S.W.3d 776 (2011).

14-42-203. Special elections of city mayors.

(a) Special elections of mayors of cities of the first class and cities of the second class shall be held at such time and place as the council directs in accordance with § 7-11-101 et seq.

(b) In all cities there shall be a place appointed in each ward for holding elections, except in cities of the second class electing their aldermen citywide, where there may be one (1) public place only for holding elections.

(c) Any person who, at the time of the election of municipal officers, is a qualified elector and registered to vote in the city precinct where he or she resides shall be deemed a qualified elector.

(d) All elections shall be held and conducted in the manner prescribed by law for holding state and county elections, so far as the laws may be applicable.

History. Acts 1875, No. 1, § 71, p. 1; C. & M. Dig., § 7515; Acts 1937, No. 259, § 1; Pope's Dig., § 9574; Acts 1959, No. 114, § 1; 1985, No. 422, § 1; A.S.A. 1947, § 19-902; Acts 1997, No. 645, § 2; 2005, No. 2145, § 26; 2007, No. 1049, § 44; 2009, No. 1480, § 62.

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in (a).

14-42-206. Municipal elections — Nominating petitions.

(a)(1) The city or town council of any city or town with the mayor-council form of government, by resolution passed before January 1 of the year of the election, may request the county party committees of recognized political parties under the laws of the state to conduct party primaries for municipal offices for the forthcoming year.

(2) The resolution shall remain in effect for the subsequent elections unless revoked by the city or town council.

(3) When the resolution has been adopted, the clerk or recorder shall mail a certified copy of the resolution to the chairs of the county party committees and to the chairs of the state party committees.

(4) Candidates nominated for municipal office by political primaries under this section shall be certified by the county party committees to the county board of election commissioners and shall be placed on the ballot at the general election.

(b)(1) Any person desiring to become an independent candidate for municipal office in cities and towns with the mayor-council form of government shall file not more than one hundred two (102) days nor less than eighty-one (81) days before the general election by 12:00 noon with the county clerk the petition of nomination in substantially the following forms:

(A) For all candidates except aldermen in cities of the first class and cities of the second class:

"PETITION OF NOMINATION

We, the undersigned qualified electors of the city (town) of ____, Arkansas, being in number not less than ten (10) for incorporated towns and cities of the second (2nd) class, and not less than thirty (30) for cities of the first (1st) class, do hereby petition that the name of ____ be placed on the ballot for the office of ____ (A candidate for alderman in an incorporated town shall identify the position for which he or she is running) at the next election of municipal officials in 20 ____.

Printed Name	Signature	Street Address	Date of Birth	Date of Signing

....."

(B) For candidates for alderman elected by ward in cities of the first class and cities of the second class, the nominating petitions shall be signed only by qualified electors of the ward in the following manner:

"PETITION OF NOMINATION

We, the undersigned qualified electors of Ward ____ of the city of ____, Arkansas, being in number not less than ten (10) for cities of the second (2nd) class, and not less than thirty (30) for cities of the first (1st) class, do hereby petition that the name of ____ be placed on the ballot for the office of Alderman, Ward ____, position ____, of the next election of municipal officials in 20 ____.

Printed Name	Signature	Street Address	Date of Birth	Date of Signing

"

(C) For at-large candidates for alderman of a ward in cities of the first class and cities of the second class, the nominating petitions shall be signed by a qualified elector of the city in the following manner:

"PETITION OF NOMINATION

We, the undersigned qualified electors of the city of ____, Arkansas, being in number not less than ten (10) for cities of the second (2nd) class, and not less than thirty (30) for cities of the first (1st) class, do hereby petition that the name of ____ be placed on the ballot for the office of Alderman, Ward ____, position ____, of the next election of municipal officials in 20 ____.

Printed Name	Signature	Street Address	Date of Birth	Date of Signing

"

(2)(A) An independent candidate for municipal office may qualify by a petition of not fewer than ten (10) electors for incorporated towns and cities of the second class and not fewer than thirty (30) electors for cities of the first class of the ward or city in which the election is to be held.

(B)(i) The county clerk shall determine no later than ten (10) days from filing whether the petition contains the names of a sufficient number of qualified electors.

(ii) The county clerk's determination shall be made no less than seventy-five (75) days before the general election.

(C) The county clerk promptly shall notify the candidate of the result.

(3) Independent candidates for municipal office shall file a political practices pledge and an affidavit of eligibility at the time of filing their petitions.

(4)(A) An independent candidate shall state the position, including the position number, if any, on his or her petition.

(B) When a candidate has identified the position sought on the notice of candidacy, the candidate shall not be allowed to change the position but may withdraw a notice of candidacy and file a new notice of candidacy designating a different position before the deadline for filing.

(5) The sufficiency of a petition filed under this section may be challenged in the same manner as election contests under § 7-5-801 et seq.

(6) A person who has been defeated in a party primary shall not file as an independent candidate in the general election for the office for which he or she was defeated in the party primary.

(c)(1)(A) If no candidate receives a majority of the votes cast in the general election, the two (2) candidates receiving the highest number of votes cast for the office to be filled shall be the nominees for the respective offices, to be voted upon in a runoff election pursuant to § 7-5-106.

(B) In any case, except for the office of mayor, in which only one (1) candidate has filed and qualified for the office, the candidate shall be declared elected and the name of the person shall be certified as elected without the necessity of putting the person's name on the general election ballot for the office.

(2) If the office of mayor is unopposed, then the candidate for mayor shall be printed on the general election ballot and the votes for mayor shall be tabulated as in all contested races.

(d)(1)(A) The governing body of any city of the first class, city of the second class, or incorporated town may enact an ordinance requiring independent candidates for municipal office to file petitions for nomination as independent candidates with the county clerk:

(i) No earlier than twenty (20) days prior to the preferential primary election; and

(ii) No later than 12:00 noon on the day before the preferential primary election.

(B) The governing body may establish this filing deadline for municipal offices even if the municipal offices are all independent or otherwise nonpartisan.

(2)(A) The ordinance shall be enacted no later than ninety (90) days prior to the filing deadline.

(B) The ordinance shall be published at least one (1) time a week for two (2) consecutive weeks immediately following adoption of the ordinance in a newspaper having a general circulation in the city.

(e) A person filing for municipal office may file for only one (1) municipal office during the municipal filing period.

(f) Nothing in this section shall repeal any law pertaining to the city administrator form of government or the city manager form of government.

(g) This section does not apply in any respect to the election of district judges.

History. Acts 1991, No. 59, §§ 2, 3; 1991, No. 430, §§ 2, 3; 1995, No. 82, § 1; 1995, No. 665, § 1; 1997, No. 645, § 3; 1999, No. 752, § 1; 2001, No. 1789, § 8; 2003, No. 542, § 3; 2003, No. 1104, § 1; 2003, No. 1165, § 10; 2003, No. 1185, § 24; 2007, No. 1020, § 21; 2007, No. 1049, § 45; 2009, No. 1480, § 63; 2011, No. 519, § 1; 2011, No. 1185, §§ 18, 19; 2013, No. 1066, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, subdivision (b)(1) is set out as amended by Acts 2007, No. 1049. The introductory language of Subdivision (b)(1) was also amended by Acts 2007, No. 149, to read as follows:

"(b)(1) Any person desiring to become an independent candidate for municipal office in cities and towns with the mayor-council form of government shall file not more than eighty (80) days nor less than sixty (60) days prior to the general election by 12:00 noon with the county clerk the petition of nomination in substantially the following forms:"

Amendments. The 2009 amendment rewrote (b)(2); inserted "and an affidavit of eligibility" in (b)(3); and added (b)(4) through (b)(6).

The 2011 amendment, in (b)(1), inserted "(A candidate for alderman in an incorporated town shall identify the position for which he or she is running)" in the petition of nomination paragraph in (b)(1)(A); and deleted "incorporated towns and" following "not less than (10) for" in the petition of nomination paragraphs of (b)(1)(B) and (C).

The 2011 amendment by No. 1028, in (b)(1), inserted "(A candidate for alderman in an incorporated town shall identify the position for which he or she is running)" in the petition of nomination paragraph in (b)(1)(A); and deleted "incorporated towns and" following "not less than ten (10) for" in the petition of nomination paragraphs of (b)(1)(B) and (C).

The 2011 amendment by No. 1185 substituted "not more than one hundred two (102) nor less than eighty-one (81)" for "not more than ninety (90) nor less than seventy (70)" in (b)(1); and inserted (b)(2)(B)(ii).

The 2013 amendment inserted present (e) and redesignated the remaining subsections accordingly.

Subchapter 3 — Charters for Cities of the First and Second Class

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-42-304. Amendments to charter.

(a) Amendments to any charter may be proposed by a two-thirds (⅔) vote of the governing body of the municipality or by petition of ten percent (10%) of the qualified electors of the municipality.

(b) The amendment shall be submitted to the qualified electors of the municipality at a regular or special election called in accordance with § 7-11-201 et seq.

(c) The proposed amendment shall be published at least one (1) time in some newspaper of general circulation throughout the municipality.

(d) Any amendment approved by a majority of the electors voting thereon shall become a part of the charter at the time fixed in the amendment and shall be certified to the Secretary of State.

(e) Each amendment submitted shall be confined to one (1) subject, and when more than one (1) amendment shall be submitted at the same time, they shall be so submitted as to enable the voters to vote on each amendment separately.

History. Acts 1953, No. 207, § 4; A.S.A. 1947, § 19-1054; Acts 2005, No. 2145, § 27; 2007, No. 1049, § 46; 2009, No. 1480, § 64.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b).

CHAPTER 43

GOVERNMENT OF CITIES OF THE FIRST CLASS

SUBCHAPTER.

Subchapter 3 — Election of City Officials

SECTION.

14-43-303. Officials in mayor-council cities of 50,000 or more.

(a)(1)(A) In the general election in the year 1960, and every four (4) years thereafter, cities of the first class that have a population of fifty thousand (50,000) persons or more, according to the latest decennial federal census or special federal census, and that also have the mayor-council form of government shall elect the following officials:

(i) One (1) mayor;

(ii) One (1) city clerk; and

(iii) One (1) alderman from each ward of the city.

(B) All of these officials shall hold office for a term of four (4) years and until their successors are elected and qualified.

(2)(A) At the general election in the year 1960, the city shall also elect:

(i) One (1) city attorney;

(ii) One (1) city treasurer; and

(iii) One (1) alderman from each ward of the city.

(B) All of these officials shall hold office for a term of two (2) years and until their successors are elected and qualified.

(3)(A) At the general election in the year 1962 and every four (4) years thereafter, the city shall elect:

(i) One (1) city attorney;

(ii) One (1) city treasurer; and

(iii) One (1) alderman from each ward of the city.

(B) All of these officials shall hold office for a term of four (4) years and until their successors are elected and qualified.

(b) In all primaries or general elections, the candidates for the office of alderman shall reside in their respective wards. However, all qualified electors residing in these cities and entitled to vote in the elections shall have the right to vote at their several voting precincts for each and every candidate so to be nominated or elected.

(c) All odd-year elections for municipal officials in the cities of the first class that have a population of fifty thousand (50,000) or more persons, according to the latest federal census, and that also have the mayor-council form of government are abolished.

(d) If a city first attains a population of fifty thousand (50,000) as shown in a decennial federal census or special federal census completed after January 1, 1997, and the mayor or other elected official of such city last elected before the census was elected to a four-year term and such term will expire two (2) years before the quadrennial general election year at which city officials are elected as provided in subsection (a) of this section, the terms of such officials shall be extended for a period of two (2) years in order that the terms will coincide with the next quadrennial general election year. At that quadrennial general election and at each quadrennial general election thereafter, the mayor and such other municipal officials shall be elected to terms of four (4) years as provided in this section. The provisions of this subsection shall not affect in any way the provisions of this section that provide for staggering the terms of office of aldermen so that one (1) alderman will be elected from each ward every two (2) years.

History. Acts 1959, No. 176, §§ 1, 2; A.S.A. 1947, §§ 19-1002.2, 19-1002.3; Acts 1997, No. 707, §§ 2, 3; 2003, No. 1185, § 25.

14-43-304. Mayors in cities having mayor-council government.

(a)(1) No mayor of cities of the first class having a mayor-council form of government shall be elected except by a majority vote of the qualified electors of the city.

(2) The provisions of this section shall not apply to a city of the first class with a city manager form of government or a city administrator.

(b)(1) As soon as the returns from all precincts are received, but in no event later than the seventh day after the election, the county board of election commissioners shall proceed to ascertain, from the certificates and ballots received from the several precincts, and declare the result of the election and deliver a certificate of his or her election to any person having the majority of legal votes for the office of mayor.

(2) The county board of election commissioners shall also file in the office of the clerk of the county court a certificate setting forth in detail the results of the election.

(c)(1) In the event that no candidate for mayor of a city of the first class receives a majority of the votes cast in the general election, the two (2) candidates receiving the highest number of votes shall be certified to a special runoff election that shall be held three (3) weeks from the day on which the general election is held.

(2) The special runoff election shall be conducted in the same manner as provided by law, and the election results thereof shall be canvassed and certified in the manner provided by law.

(d) In the event that a vacancy occurs in the office of mayor of these cities, the vacancy shall be filled by a special election and special runoff election, if necessary, as provided in subsection (c) of this section.

History. Acts 1975, No. 269, §§ 1-3; A.S.A. 1947, §§ 19-1002.9 — 19-1002.11; 2003, No. 1165, § 13[11].

Publisher's Notes. Acts 2003, No. 1165 did not contain a Section 11 or 12.

14-43-312. Aldermen in mayor-council cities of fewer than 50,000.

(a)(1) On the Tuesday following the first Monday in November 1966 and every two (2) years thereafter, the qualified voters of all cities of the first class having the mayor-council form of government with fewer than fifty thousand (50,000) inhabitants shall elect two (2) aldermen from each ward for a term of two (2) years, except that by ordinance any city of the first class may refer the question to voters to elect two (2) aldermen from each ward to four-year terms as more particularly set out in subdivision (a)(2)(A) of this section.

(2)(A) On or before February 1 of the election year when the procedure will go into effect, any city of the first class, by ordinance referred to and approved by the voters at the previous general election or at a special election called for that purpose, may elect two (2) aldermen from each ward to four-year terms, except for the initial terms as provided in subdivision (a)(2)(B) of this section.

(B)(i) If this procedure is adopted by ordinance referred to and approved by the voters of the city, the alderman representing position number one from each ward will be elected to a four-year term at the next general election.

(ii) The alderman representing position number two from each ward will be elected to an initial two-year term at the next election, and thereafter will be elected to four-year terms, resulting in staggered terms with one (1) alderman being elected to a four-year term from each ward every two (2) years.

(b)(1) The aldermen shall be designated as "alderman number one" and "alderman number two".

(2)(A) A candidate for the office of alderman shall designate the number of the alderman's office which the candidate is seeking on the petition filed under § 14-42-206.

(B) When this designation has been made, the candidate shall not be permitted thereafter to change the designation on that petition.

(C) The county clerk shall not accept a petition for filing that does not designate the number of the office for alderman sought.

(D) Each city shall maintain in its records a document showing the name of each alderman and the number of the office which the candidate holds.

(c)(1)(A) The city council may refer an ordinance to voters on the question of returning a city to electing aldermen to two-year terms.

(B) The ordinance must be passed by a two-thirds (⅔) vote of the city council before it is referred to and approved by voters at a general election.

(2) If the voters approve returning the city to electing aldermen to two-year terms, all aldermen shall be elected to two-year terms at the next general election and thereafter, except that those aldermen serving four-year terms shall complete their terms.

(3) The city council may not refer another question to voters on electing aldermen to four-year terms or on returning the city to electing aldermen to two-year terms unless at least four (4) years have passed since the last election on changing the terms of aldermen.

History. Acts 1965, No. 484, §§ 1, 2; A.S.A. 1947, §§ 19-1002.5, 19-1002.6; Acts 2001, No. 543, § 1; 2003, No. 244, § 1; 2005, No. 81, § 1; 2013, No. 503, § 1.

Amendments. The 2013 amendment rewrote (b).

14-43-313. City clerks and attorneys generally.

The city clerks and the city attorneys in cities of the first class shall give the bond, perform the duties, and receive such salary as is prescribed by ordinance in each of these cities.

History. Acts 1893, No. 151, § 1; C. & M. Dig., § 7690; Pope's Dig., § 9819; A.S.A. 1947, § 19-1015; Acts 2003, No. 113, § 1.

14-43-314. City attorney in mayor-council cities of 50,000 or more.

(a)(1) The city attorney in any city of this state having a mayor-council form of government and having a population of fifty thousand

(50,000) or more inhabitants shall be elected by the qualified electors of the city in the same manner as other municipal officials are elected.

(2) At the November 1978 general election and each four (4) years thereafter, the qualified electors of each city under this section shall elect a city attorney to take office on the next following January 1 to serve for a term of four (4) years.

(b) Any person elected as city attorney under the provisions of this section shall perform such duties, possess such qualifications, employ such staff, and be paid such salary and expenses as may be established by ordinance by the city council of the city.

(c)(1) If no attorney residing in the city is elected as city attorney, the city council may select a resident attorney to fill the office for the remainder of the unfilled term.

(2)(A) If no resident attorney of the city is willing to serve as city attorney or if no attorney resides within the limits of the city, the mayor and city council may contract with any licensed attorney of this state or the attorney's firm to serve as legal advisor, counselor, or prosecutor until a qualified city attorney is elected or appointed.

(B) The duties of a nonresident attorney under contract shall be prescribed by ordinance.

History. Acts 1969, No. 154, §§ 1, 3; 1977, No. 171, §§ 1, 4; 1979, No. 1002, § 1; A.S.A. 1947, §§ 19-1015.3, 19-1015.5, 19-1015.7; Acts 1993, No. 1121, § 1; 2003, No. 1361, § 1.

14-43-315. City attorney in mayor-council cities of fewer than 50,000.

(a) The qualified voters of cities of the first class having a population of fewer than fifty thousand (50,000) and having the mayor-council form of government shall elect a city attorney for four (4) years on the Tuesday following the first Monday in November 1970 and every four (4) years thereafter.

(b) Incumbent city attorneys shall continue in office until their successors are elected and qualified.

(c)(1) If no attorney residing in the city is elected as city attorney, the city council may select a resident attorney to fill the office for the remainder of the unfilled term.

(2)(A) If no resident attorney of the city is willing to serve as city attorney or if no attorney resides within the limits of the city, the mayor and city council may contract with any licensed attorney of this state or the attorney's firm to serve as legal advisor, counselor, or prosecutor until a qualified city attorney is elected or qualified.

(B) The duties of a nonresident attorney under contract shall be prescribed by ordinance.

History. Acts 1965, No. 131, § 1; A.S.A. 1947, § 19-1015.1; Acts 2003, No. 1361, § 2.

14-43-316. City clerk, treasurer, or clerk-treasurer in mayor-council cities of fewer than 50,000.

(a)(1) The qualified voters of cities of the first class having a population of fewer than fifty thousand (50,000) and having the mayor-council form of government shall elect on the first Tuesday following the first Monday in November, 1962, and every four (4) years thereafter:

(A)(i) One (1) city clerk; and

(ii) One (1) city treasurer, unless appointed pursuant to § 14-43-405; or

(B) A city clerk-treasurer.

(2) The city clerk and city treasurer, or the city clerk-treasurer, shall hold office for four (4) years and until a successor is elected and qualified.

(b) The city clerk and the city treasurer, or the city clerk-treasurer, shall take the oath of office with the other city officials that are elected in the general election in 1962 and in that manner every four (4) years thereafter.

(c) The city clerk and city treasurer, or city clerk-treasurer, shall give the bond and perform the duties as are prescribed by law and shall receive a salary as is prescribed by ordinance in each of these cities.

(d) Each incumbent in any city having this population shall continue to be the city clerk, city treasurer, or city clerk-treasurer and receive the salary and perform the duties until a successor is elected and qualified.

History. Acts 1943, No. 248, § 1; 1951, No. 123, § 1; 1961, No. 430, § 1; A.S.A. 1947, § 19-1016; Acts 2001, No. 364, § 1.

A.C.R.C. Notes. The language "on the first Tuesday following the first Monday in November, 1962" in subsection (a) originally applied to the city clerk position and its application to the treasurer or clerk-treasurer position concerns the 2002 date when those positions will next be elected.

14-43-318. [Repealed.]

Publisher's Notes. This section, concerning police judges of first-class cities, was repealed by Acts 2005, No. 45, § 1. The section was derived from Acts 1987, No. 684, § 1.

14-43-319. City attorney in mayor-council cities of fewer than 5,000.

(a)(1) If not established by ordinance that the office of the city attorney will be appointed, the qualified voters of cities of the first class having a population of fewer than five thousand (5,000) and having the mayor-council form of government shall elect a city attorney for four (4) years on the Tuesday following the first Monday in November 2006 and every four (4) years thereafter.

(2) An incumbent city attorney shall continue in office until his or her successor is elected and qualified.

(b)(1) If no attorney residing in the city is elected as city attorney, the city council may select a resident attorney to fill the office for the remainder of the unfilled term.

(2)(A) If no resident attorney of the city is willing to serve as city attorney or if no attorney resides within the limits of the city, the mayor and city council may contract with any licensed attorney of this state or the attorney's firm to serve as legal advisor, counselor, or prosecutor until a qualified city attorney is elected or qualified.

(B) The duties of a nonresident attorney under contract shall be prescribed by ordinance.

History. Acts 2005, No. 387, § 1.

Subchapter 4 — Officers and Employees Generally

Effective Dates. Acts 2007, No. 663, § 56: Jan. 1, 2012.

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-43-405. Treasurer — Clerk-treasurer in mayor-council cities.

(a)(1) Each city of the first class having the mayor-council form of government may provide, by ordinance, for the election or appointment of its city treasurer.

(2) The city council may designate, by ordinance or resolution, the city clerk as clerk-treasurer, allowing one (1) person to assume the duties of both clerk and treasurer.

(b) The term of office for these positions, combined or separate, is four (4) years.

History. Acts 1965, No. 484, § 4; A.S.A. 1947, § 19-1015.2; Acts 2001, No. 364, § 2.

14-43-409. Compensation of officials generally.

Any officer provided for in this subtitle, and by ordinance of any city under this subtitle, shall receive such salary as the council of any city may designate, and in no instance shall he or she receive an additional compensation by way of fees, fines, or perquisites.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., § 7693; Pope's Dig., § 9836; A.S.A. 1947, § 19-1025; Acts 2007, No. 663, § 17.

14-43-410. Compensation of city attorneys.

(a) Any city of the first class, city of the second class, or incorporated town in the State of Arkansas may provide by ordinance that the city attorney of the city shall receive as part of his or her compensation, for all prosecutions tried by the city attorney for violations of ordinances of the city and for all prosecutions tried by the city attorney for violations of state laws committed within the corporate limits of the cities, the same fees as are allowed prosecuting attorneys in this state in all criminal cases.

(b)(1)(A) By proper ordinance, any city or town may specify pay for the city attorney as the council may desire.

(B) The pay may include salary, hourly fees, costs, fees, or other like compensation, in combination or singularly, as the council may deem appropriate.

(2) In the event the city attorney is paid a salary only, the city is authorized to collect the fees referred to in this section and they are to be applied as the council may direct.

History. Acts 1967, No. 431, § 1; 1985, No. 171, § 1; A.S.A. 1947, § 19-1025.1; Acts 2001, No. 366, § 1.

14-43-411. Alderman vacancy in mayor-council form of government.

(a)(1)(A) Whenever a vacancy occurs in the office of alderman in a city of the first class having a population of less than twenty thousand (20,000) according to the most recent federal decennial census, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to elect by a majority vote of the remaining members elected to the council an alderman to serve for the unexpired term.

(B)(i) However, at least a quorum of the whole number of the city council shall remain in order to fill a vacancy.

(ii) The election by the remaining members of the city council is not subject to veto by the mayor.

(2) The person elected by the council shall be a resident of the ward where the vacancy occurs at the time of the vacancy.

(b) When a vacancy occurs in any position of alderman in a city having a population of twenty thousand (20,000) or more according to the most recent federal decennial census, a new alderman shall be chosen in the following manner:

(1) If the unexpired portion of the term of alderman exceeds one (1) year, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to either elect by a majority vote of the remaining members elected to the council an alderman to serve for the unexpired term or call for a special election to be held in accordance with § 7-11-101 to fill the vacancy; or

(2) If the unexpired portion of the term of alderman is one (1) year or less, a successor shall be chosen by a majority vote of the members of the council.

History. Acts 1943, No. 154, § 1; 1981, No. 303, § 1; A.S.A. 1947, § 19-1026; Acts 1997, No. 202, § 1; 2005, No. 2145, § 28; 2007, No. 1049, § 47; 2009, No. 185, § 2; 2009, No. 385, § 2; 2009, No. 1480, § 65.

Amendments. The 2009 amendment by No. 185 redesignated (a)(1), added (a)(1)(C), and made minor stylistic changes.

The 2009 amendment by No. 385 inserted "in mayor-council form of government" in the section heading; inserted "having a population of less than twenty thousand (20,000) according to the most recent federal decennial census" and substituted "the first" for "any" in (a)(1)(A), and redesignated (a)(1)(B) and (C); in (b), in the introductory language, substituted "twenty thousand (20,000)" for "fifty thousand (50,000)" and deleted "and having a mayor-council form of government in which the electors of each ward elect one (1) or more aldermen" following "census," and rewrote (b)(1); and made related changes.

The 2009 amendment by No. 1480 substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in (b)(1).

14-43-412. Vacancies in other elected offices.

(a) In case any office of an elected officer, except aldermen of the ward, becomes vacant before the expiration of the regular term, then the vacancy shall be filled by the city council until a successor is duly elected and qualified.

(b) The successor shall be elected for the unexpired term at the first general election that occurs after the vacancy has happened.

History. Acts 1875, No. 1, § 63, p. 1; C. & M. Dig., § 7746; Pope's Dig., § 9941; A.S.A. 1947, § 19-1027; Acts 2011, No. 134, § 1.

Amendments. The 2011 amendment substituted "first general" for "first annual" in (b).

Subchapter 5 — Powers and Duties Generally

Effective Dates. Acts 2001, No. 354, § 2: Feb. 22, 2001. Emergency clause provided: "It is hereby found and determined by the Eighty-third General Assembly that there are certain cities in Arkansas whose governing bodies have not been able to meet due to a lack of quorum and that those cities have been unable to enact legislation or to conduct municipal business which is necessary to the operation of the city and its provision of necessary services to the citizens of the city. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-43-501. Organization of city council.

(a)(1) The aldermen elected for each city or town shall annually, at the first council meeting in January, assemble and organize the city council.

(2)(A) A majority of the whole number of aldermen constitutes a quorum for the transaction of business.

(B)(i) They shall be judges of the election returns and of the qualifications of their own members.

(ii) These judgments are not subject to veto by the mayor.

(C)(i) They shall determine the rules of their proceedings and keep a journal of their proceedings, which shall be open to the inspection and examination of any citizen.

(ii) They may also compel the attendance of absent members in such a manner and under such penalties as they shall think fit to prescribe.

(iii) They may consider the passage of rules on the following subjects, including without limitation:

(a) The agenda for meetings;

(b) The filing of resolutions and ordinances; and

(c) Citizen commentary.

(b)(1)(A) The mayor shall be ex officio president of the city council and shall preside at its meetings.

(B) The mayor shall have a vote to establish a quorum of the city council at any regular meeting of the city council and when his or her vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(2) In the absence of the mayor, the city council shall elect a president pro tempore to preside over council meetings.

(3) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following may perform all functions of a mayor during the disability or absence of the mayor:

(A) The city clerk;

(B) Another elected official of the city if designated by the mayor; or

(C) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., §§ 7738-7741; Pope's Dig., §§ 9934-9937; Acts 1981, No. 345, § 1; A.S.A. 1947, § 19-1010; Acts 2001, No. 354, § 1; 2005, No. 190, § 1; 2009, No. 185, § 3; 2011, No. 110, § 1; 2013, No. 753, § 1.

Amendments. The 2009 amendment inserted (a)(2)(B)(ii) and redesignated the remaining text of (a)(2)(B) accordingly; and made minor stylistic changes.

The 2011 amendment added "to preside over council meetings" at the end of (b)(2); and added (b)(3).

The 2013 amendment rewrote (b)(3).

14-43-502. Powers of council generally.

(a) The city council shall possess all the legislative powers granted by this subtitle and other corporate powers of the city not prohibited in it or by some ordinance of the city council made in pursuance of the provisions of this subtitle and conferred on some officer of the city.

(b)(1) The council shall have the management and control of finances, and of all the real and personal property belonging to the corporation.

(2)(A) The council shall provide the times and places of holding its meetings, which shall at all times be open to the public.

(B) The mayor or any three (3) aldermen of any city or town, regardless of size or classification, may call special meetings in the manner as may be provided by ordinance.

(3) The council shall appoint, or provide by ordinance, that the qualified voters of the city, of the wards, or districts as the case may require, shall elect all such city officers as shall be necessary for the good government of the city and for the due exercise of its corporate powers, and which shall have been provided by ordinance, as to whose appointment or election provision is not made in this subtitle and not provided by any general law of the state in reference to cities of the first class.

History. Acts 1875, No. 1, § 62, p. 1; C. & M. Dig., § 7744; Pope's Dig., § 9940; A.S.A. 1947, § 19-1011; Acts 2001, No. 365, § 1.

14-43-503. [Repealed.]

Publisher's Notes. This section, concerning imposition of costs on misdemeanor convictions, was repealed by Acts 1999, No. 1081, § 11. The section was derived from Acts 1977, No. 564, § 1; A.S.A. 1947, § 19-1011.1.

14-43-504. Powers and duties of mayor generally.

(a) The mayor of the city shall be its chief executive officer and conservator of its peace. It shall be his or her special duty to cause the ordinances and regulations of the city to be faithfully and constantly obeyed.

(b) The mayor shall:

(1) Supervise the conduct of all the officers of the city, examine the grounds of all reasonable complaints made against them, and cause all their violations of duty or other neglect to be properly punished or reported to the proper tribunal for correction;

(2) Have and exercise the power conferred on sheriffs, within the city limits, to suppress disorder and keep the peace; and

(3) Perform such other duties compatible with the nature of his or her office as the city council may from time to time require.

(c) [Repealed.]

(d) The mayor shall report, within the first ninety (90) days of each year and at such other times as he or she shall deem expedient, to the council the municipal affairs of the city and recommend such measures as may seem advisable.

(e) The mayor of any city of the first class shall, in addition to the powers and duties already pertaining to that office, be clothed with, and exercise and perform, the following:

(1) A mayor may veto, within five (5) days, Sundays excepted, after the action of the city council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.

(2)(A) In case of a veto, before the next regular meeting of the council, the mayor shall file in the office of the city clerk, to be laid before that meeting, a written statement of his or her reasons for so doing.

(B) An ordinance, an order, or a resolution or part thereof, vetoed by the mayor is invalid unless, after the written statement is laid before it, the council , by a vote of two-thirds (⅔) of all the aldermen elected thereto, passes it over the veto.

(3) The mayor does not have the power of veto in circumstances prescribed under § 14-43-501(a) or § 14-43-411(a).

History. Acts 1875, No. 1, § 53, p. 1; 1885, No. 67, § 2, p. 92; 1893, No. 42, §§ 1, 2, p. 64; 1913, No. 226, § 1; C. & M. Dig., §§ 7697-7701; Pope's Dig., §§ 9840-9844; Acts 1979, No. 153, §§ 1, 2; A.S.A. 1947, §§ 19-1013, 19-1014; Acts 1991, No. 786, § 14; 1995, No. 534, § 2; 1995, No. 914, § 2; 2009, No. 161, § 1; 2009, No. 185, § 4.

Amendments. The 2009 amendment by No. 161 substituted "within the first ninety (90) days of each year" for "at the second regular meeting of the council in each year" in (d).

The 2009 amendment by No. 185 added (e)(3) and made minor stylistic changes.

CASE NOTES

Annexation.

Mayor was authorized to sign an annexation petition on behalf of the city, where the city owned land whose annexation was proposed, as an exercise of his authority as chief executive officer of the city. City of Marion v. Guaranty Loan & Real Estate Co., 75 Ark. App. 427, 58 S.W.3d 410 (2001).

14-43-506. Duties of city clerk.

(a) The city clerk in cities of the first class shall have the custody of all the laws and ordinances of the city and shall keep a regular and correct journal of the proceedings of the city council.

(b)(1) The city clerk, city clerk-treasurer, or city treasurer, as the case may be, shall be required to submit quarterly a full report and a detailed statement of the financial condition of the city. This report shall show receipts, disbursements, and balance on hand, together with all liabilities of the city.

(2) The report shall be submitted to the council in open session.

History. Acts 1875, No. 1, § 51, p. 1; C. & M. Dig., § 7694; Pope's Dig., § 9837; A.S.A. 1947, § 19-1018; Acts 2007, No. 71, § 1.

Subchapter 6 — Powers over Municipal Affairs

14-43-601. Municipal affairs delineated.

(a) As used in this subchapter:

(1) "Municipal affairs" means all matters and affairs of government germane to, affecting, or concerning the municipality or its government except the following, which are state affairs and subject to the general laws of the State of Arkansas:

(A) Public information and open meetings;

(B) Uniform requirements for competitive bidding on contracts;

(C) Claims against a municipality;

(D) Requirements of surety bonds for financial officers;

(E) Collective bargaining;

(F) Pension and civil service systems;

(G) Hours and vacations, holidays, and other fringe benefits of employees;

(H) The definition, use, and control of surplus revenues of municipally owned utilities;

(I) Vacation of streets and alleys;

(J) Matters coming within the police power of the state, including minimum public health, pollution, and safety standards;

(K) Gambling and alcoholic beverages;

(L) Traffic on or the construction and maintenance of state highways;

(M) Regulations of intrastate commerce, including rates and terms of service of railroad, bus, and truck lines, cooperatives, and nonmunicipally owned utilities;

(N) The incorporation and merger of municipalities and annexation of territory to municipalities; and

(O) Procedure for the passage of ordinances by the governing body of the municipality; and

(2)(A) "Municipality" means a city of the first class, a city of the second class, or an incorporated town.

(B) A municipality may legislate upon the state affairs described in subdivision (a)(1) of this section if not in conflict with state law.

(b)(1) Matters of public health that concern emergency medical services, emergency medical technicians, and ambulances, as defined in §§ 20-13-201 — 20-13-209 and 20-13-211, and ambulance companies, shall be included in the term "municipal affairs".

(2)(A) Municipalities shall have the authority to enact and establish standards, rules, or regulations that are equal to or greater than those established by the state concerning emergency medical services, emergency medical technicians, ambulances, and ambulance companies.

(B) The standards, rules, or regulations shall not be less than those established by the state for the rating of the service offered.

History. Acts 1971, No. 266, § 2; 1981 (Ex. Sess.), No. 23, § 7; A.S.A. 1947, § 19-1043; Acts 2011, No. 1187, § 1.

Amendments. The 2011 amendment inserted "of the municipality" in (a)(1)(O); inserted (a)(2)(A); rewrote (a)(2)(B); deleted "of cities of the first class" at the end of (b)(1); and substituted "Municipalities" for "These cities" in (b)(2)(A).

14-43-602. Authority generally.

(a) A municipality is authorized to perform any function and exercise full legislative power in any and all matters of whatsoever nature pertaining to its municipal affairs including, but not limited to, the power to tax.

(b) The rule of decision known as Dillon's Rule is inapplicable to the municipal affairs of municipalities.

History. Acts 1971, No. 266, § 1; A.S.A. 1947, § 19-1042; Acts 2011, No. 1187, § 2.

Amendments. The 2011 amendment substituted "A municipality" for "Any city of the first class" in present (a); and added (b).

14-43-604. Gambling.

A municipality may not authorize gambling, except as provided by state law.

History. Acts 1971, No. 266, § 3; A.S.A. 1947, § 19-1044; Acts 2011, No. 1187, § 3.

Amendments. The 2011 amendment added "except as provided by state law."

14-43-609. Public utilities and carriers.

The provisions of this subchapter shall not repeal, limit, modify, or affect any of the powers conferred upon municipalities to regulate, in the manner prescribed by law, the rates or charges to be made for services rendered in the municipality by any regulated public utility or carrier operating under franchise issued by the municipality, including without limitation any of the following:

(1) Electric, gas, or water utilities;

(2) Telephone or telegraph companies;
(3) Taxicabs;
(4) Municipal bus companies; or
(5) Other utilities or carriers operating under public service franchise issued by the municipality.

History. Acts 1971, No. 266, § 4; 1971, No. 537, § 1; A.S.A. 1947, § 19-1045; Acts 2011, No. 1187, § 4.

Amendments. The 2011 amendment substituted "municipalities" for "cities of the first class" in the introductory language; substituted "municipality" for "city" or variant twice in the introductory language, in (4) and (5).

CHAPTER 44

GOVERNMENT OF CITIES OF THE SECOND CLASS

Effective Dates. Acts 2007, No. 663, § 56: Jan. 1, 2012.

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-44-103. Election of aldermen.

(a)(1) Except as provided under subdivision (a)(3) of this section, on the Tuesday following the first Monday in November 1982, and every two (2) years thereafter, the qualified voters in cities of the second class shall elect for each of the wards of these cities two (2) aldermen, who shall compose the city council.

(2) The qualified electors of every city of the second class shall elect from each ward of the city two (2) aldermen, who shall be designated as "alderman number one" and "alderman number two" of the ward.

(3)(A) A candidate for the office of alderman shall designate the number of the alderman's office that the candidate is seeking on the petition filed pursuant to § 14-42-206.

(B) When this designation has been made, the candidate shall not be permitted thereafter to change the designation on that petition.

(C) The county clerk shall not accept a petition for filing that does not designate the number of the office of alderman sought.

(D) Each city shall maintain in its records a document showing the name of each alderman and the number of the office which the candidate holds.

(b)(1)(A) A candidate for the office of alderman in a city of the second class shall reside in the ward from which he or she seeks to be elected and shall run for election at large, except if the alderman is elected by ward under subsection (c) of this section.

(B) All of the qualified electors of the city shall be entitled to vote in the election.

(C) Provision shall be made by the election commissioners in these cities so that the qualified electors of each ward shall have at least one (1) voting precinct in each ward where the resident electors thereof may cast their ballots.

(2) If any duly elected alderman shall cease to reside in the ward from which he or she was elected, that person shall be disqualified to hold the office and a vacancy shall exist, which shall be filled as prescribed by law.

(c)(1)(A) The city council of any such city is empowered and authorized to provide, by ordinance, that all aldermen be elected by ward, in which event each alderman shall be voted upon by the qualified electors of the ward from which the person is a candidate.

(B)(i) When so provided by city ordinance, the name of the candidate shall appear upon the ballot only in the ward in which he or she is a candidate.

(ii) The city council of these cities may provide for the election of one (1) alderman from each ward citywide and the other aldermen from each ward by the voters of the ward only.

(2) All such cities choosing to elect all aldermen by wards or part by wards shall provide, in the manner provided by law, for the establishment of wards of substantially equal population in order that each alderman elected from each ward shall represent substantially the same number of people in the city.

(d) Cities of the second class that elect their aldermen citywide may have one (1) public place only for holding elections.

History. Acts 1887, No. 10, § 1, p. 11; C. & M. Dig., § 7679; Pope's Dig., § 9801; Acts 1953, No. 184, §§ 1-3; 1961, No. 444, § 2; 1965, No. 484, § 3; 1969, No. 45, § 1; 1973, No. 501, § 1; 1981, No. 346, § 1; 1985, No. 421, § 1; A.S.A. 1947, §§ 19-1002.7, 19-1101 — 19-1101.3; Acts 2003, No. 328, §§ 1, 2; 2005, No. 2145, § 29; 2007, No. 1049, § 48; 2009, No. 1480, § 66; 2013, No. 503, § 2.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(4)(B).

The 2013 amendment rewrote (a)(3).

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Local Government, Election of Aldermen, 26 U. Ark. Little Rock. L. Rev. 433.

14-44-104. Vacancy in alderman's office.

(a) Whenever a vacancy occurs in the office of alderman in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to elect, by a majority vote of the council, an alderman to serve for the unexpired term.

(b) The election to fill the vacancy under subsection (a) of this section is not subject to veto by the mayor.

History. Acts 1927, No. 124, § 1; Pope's Dig., §§ 9802, 9942; A.S.A. 1947, § 19-1111; Acts 2013, No. 1325, § 1.

Amendments. The 2013 amendment substituted "occurs" for "shall occur" in (a); and added (b).

14-44-106. Vacancy in mayor's office.

Whenever a vacancy occurs in the office of mayor in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to either elect by a majority vote of the aldermen a mayor to serve the unexpired term or call for a special election to be held in accordance with § 7-11-101 et seq. to fill the vacancy. At this election, a mayor shall be elected to fill out the unexpired term.

History. Acts 1959, No. 54, § 1; 1967, No. 427, § 1; A.S.A. 1947, § 19-1110; Acts 1997, No. 645, § 4; 2005, No. 2145, § 30; 2007, No. 1049, § 49; 2009, No. 1480, § 67.

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)."

14-44-107. Powers of mayor generally.

(a) The mayor in cities of the second class shall be ex officio president of the city council, shall preside at its meetings, and shall have a vote to establish a quorum of the council, or when the mayor's vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(b)(1) The mayor in these cities shall have the power to veto, within five (5) days, Sundays excepted, after the action of the council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.

(2)(A) In case of a veto, before the next regular meeting of the council, the mayor shall file in the office of the city recorder, to be laid before the meeting, a written statement of his or her reasons for so doing.

(B) No ordinance, resolution, or order, or part thereof, vetoed by the mayor shall have any force or validity unless, after the written

statement is laid before it, the council shall, by a vote of two-thirds (⅔) of all the aldermen elected thereto, pass it over the veto.

(c) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following may perform all functions of a mayor during the disability or absence of the mayor:

(1) The recorder;

(2) Another elected official of the city if designated by the mayor; or

(3) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

History. Acts 1887, No. 10, § 1, p. 11; C. & M. Dig., § 7679; Pope's Dig., § 9801; Acts 1981, No. 346, § 1; A.S.A. 1947, § 19-1101; Acts 1997, No. 1122, § 1; 2013, No. 753, § 2.

Amendments. The 2013 amendment added (c).

14-44-108. Mayor of a city of the second class.

The mayor of a city of the second class shall perform all duties required by the ordinances of the city and shall give bond and security in any amount to be determined and approved by the city council.

History. Acts 1875, No. 1, § 48, p. 1; 1881, No. 16, § 1, p. 29; 1883, No. 63, § 2, p. 97; C. & M. Dig., § 7681; Pope's Dig., § 9809; Acts 1941, No. 284, § 2; A.S.A. 1947, § 19-1102; Acts 1995, No. 298, § 1; 2003, No. 1185, § 26; 2007, No. 663, § 18.

Effective Dates. Acts 2007, No. 663, § 56, as amended by Acts 2009, No. 345, § 7, provided:

"(a) Sections 2 through 15 of this act are effective January 1, 2008.

"(b) Sections 16 through 50 and 52 through 55 of this act are effective January 1, 2012.

"(c) Section 51 of Act 663 of 2007 is effective January 1, 2012, except:

"(1) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-933, establishing the Cleburne County District Court and departments of that court, codified as § 16-17-936 is effective July 1, 2009; and

"(2) That portion of Section 51 of Act 663 of 2007 that is referred to in Act 663 of 2007 as 16-17-950, establishing the St. Francis County District Court and departments of that court, codified as § 16-17-954 is effective July 1, 2009."

14-44-115. Election of recorder, treasurer, or recorder-treasurer.

On the Tuesday following the first Monday in November, 1972, and every four (4) years thereafter, the qualified voters of cities of the second class shall elect a recorder, a treasurer, or a recorder-treasurer, as the case may be, for a term of four (4) years.

History. Acts 1969, No. 272, § 1; A.S.A. 1947, § 19-1103.3; Acts 2001, No. 364, § 3.

A.C.R.C. Notes. The language "on the first Tuesday following the first Monday in November, 1972" in this section originally applied to the recorder or recorder-treasurer positions and its application to the treasurer position concerns the 2004 date when that position will next be elected.

14-44-116. Vacancy in office of recorder, treasurer, or recorder-treasurer.

Whenever a vacancy occurs in the office of recorder, treasurer, or recorder-treasurer in any city of the second class, at the first regular meeting after the occurrence of the vacancy, the city council shall elect by a majority vote of all the aldermen a person to serve for the unexpired term.

History. Acts 1921, No. 450, § 1; Pope's Dig., § 9811; A.S.A. 1947, § 19-1112; Acts 2007, No. 62, § 1.

CHAPTER 45

GOVERNMENT OF INCORPORATED TOWNS

Effective Dates. Acts 2007, No. 663, § 56: Jan. 1, 2012.

14-45-102. Election of aldermen.

(a)(1) Except as provided in subdivision (a)(2) of this section, on the Tuesday following the first Monday in November 1982 and every two (2) years thereafter, the qualified voters of incorporated towns shall elect five (5) aldermen.

(2)(A) The town council of an incorporated town may refer to the voters an ordinance on the question of electing the five (5) aldermen to four-year terms.

(B)(i) The voters shall vote on the ordinance at a general election or at a special election called for that purpose.

(ii) The election to approve the four-year election procedure shall be held no later than February 1 of the year of the general election in which the procedure is proposed to be effective.

(C) If this procedure is adopted by an ordinance referred to and approved by the voters of the town, the initial terms for aldermen representing positions numbered one (1), three (3), and five (5) shall be four-year terms at the next general election and the initial terms for aldermen representing positions numbered two (2) and four (4) shall be two-year terms and thereafter four-year terms, resulting in staggered terms.

(D)(i) The town council may refer to voters an ordinance on the question of returning the town to electing aldermen to two-year terms using the procedures of subdivision (a)(2) of this section.

(ii) If the voters approve returning a town to two-year terms, all aldermen shall be elected to two-year terms at the next general election and thereafter.

(E) The town council may not refer to voters another question on electing aldermen to four-year terms or on returning the town to electing aldermen to two-year terms unless at least four (4) years have passed since the last election on changing the terms of aldermen.

(b)(1) A candidate for the office of alderman shall designate the number of the office for alderman that the candidate is seeking on the petition filed pursuant to § 14-42-206.

(2) If there is a designation under subdivision (b)(1) of this section, the candidate shall not change the designation on that petition.

(3) The county clerk shall not accept a petition for filing that does not designate the number of the office for alderman sought.

(4) Each town shall maintain in its records a document showing the name of each alderman and the number of the office that the candidate holds.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Acts 1937, No. 259, § 2; Pope's Dig., § 9793; Acts 1965, No. 483, § 1; 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2005, No. 46, § 1; 2013, No. 503, § 3.

Amendments. The 2013 amendment rewrote (b).

14-45-103. Vacancies.

(a) When a vacancy occurs in the office of alderman in an incorporated town, at the first regular meeting after the occurrence of the vacancy, the town council shall elect by a majority vote of the town council an alderman to serve for the unexpired term.

(b) When a vacancy occurs in the office of mayor in an incorporated town, at the first regular meeting after the occurrence of the vacancy, the town council shall:

(1) Elect by a majority vote of the aldermen a mayor to serve the unexpired term; or

(2)(A) Call for a special election to be held in accordance with § 7-11-101 et seq. to fill the vacancy.

(B) At the special election, a mayor shall be elected to complete the unexpired term.

History. Acts 1875, No. 1, § 43, p. 1; C. & M. Dig., § 7674; Acts 1937, No. 259, § 3; Pope's Dig., § 9796; A.S.A. 1947, § 19-1206; Acts 1989, No. 386, § 1; 2013, No. 978, § 1.

Amendments. The 2013 amendment rewrote the section.

14-45-105. Powers of mayor generally.

(a) The mayor in incorporated towns shall be ex officio president of the town council, shall preside at its meetings, and shall have a vote when the mayor's vote is needed to pass any ordinance, bylaw, resolution, order, or motion.

(b)(1) The mayor in these towns shall have the power to veto, within five (5) days, Sundays excepted, after the action of the council thereon, any ordinance, resolution, or order adopted or made by the council, or any part thereof, which in his or her judgment is contrary to the public interest.

(2)(A) In case of a veto, the mayor shall, before the next regular meeting of the council, file a written statement of his or her reasons for the veto in the office of the town recorder-treasurer, to be laid before the meeting.

(B) No ordinance, resolution, or order, or part thereof, vetoed by the mayor shall have any force or validity unless, after the written statement is laid before it, the council shall, by a vote of two-thirds (⅔) of all the aldermen elected thereto, pass it over the veto.

(c) If the mayor is unable to perform the duties of office or cannot be located, one (1) of the following may perform all functions of a mayor during the disability or absence of the mayor:

(1) The recorder;

(2) Another elected official of the city if designated by the mayor; or

(3) An unelected employee or resident of the city if designated by the mayor and approved by the city council.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Pope's Dig., § 9793; Acts 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2013, No. 753, § 3.

Amendments. The 2013 amendment added (c).

14-45-106. Mayor of an incorporated town.

(a) The mayor of an incorporated town shall perform all duties required by the ordinances of the city and shall give bond and security in any amount to be ascertained and approved by the city council.

(b) In addition for his or her services as mayor, the council, by ordinance, may make proper allowance for, and payment of, compensation.

History. Acts 1875, No. 1, § 45, p. 1; C. & M. Dig., § 7676; Acts 1921, No. 368, § 1; Pope's Dig., § 9798; Acts 1941, No. 284, § 1; A.S.A. 1947, § 19-1204; Acts 1995, No. 298, § 2; 2003, No. 114, § 1; 2003, No. 1185, § 27; 2007, No. 663, § 19.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2003, No. 1185. Subsection (d) of this section was also amended by Acts 2003, No. 114 to read as follows:

"(d) The mayor shall:

"(1) Perform all duties required by the ordinances of the town, and appeals may be taken in the same manner as from decisions of justices of the peace; and

"(2)(A) Keep a docket and charge and collect the same fees as justices of the peace are allowed for similar services.

"(B) In addition for his or her services

as mayor, by ordinance the council may make proper allowance for, and payment of, compensation."

14-45-108. Election of recorder-treasurer.

The qualified voters of incorporated towns shall elect one (1) recorder-treasurer on the Tuesday following the first Monday in November 1982 and every four (4) years thereafter.

History. Acts 1875, No. 1, § 41, p. 1; C. & M. Dig., § 7671; Acts 1937, No. 259, § 2; Pope's Dig., § 9793; Acts 1965, No. 483, § 1; 1981, No. 343, § 1; A.S.A. 1947, § 19-1201; Acts 2005, No. 1008, § 1.

CHAPTER 47

CITY MANAGER FORM OF MUNICIPAL GOVERNMENT

Effective Dates. Acts 2003, No. 1185, § 29: Jan. 1, 2005, by its own terms.

Acts 2003, No. 1185, § 30: Jan. 1, 2005, by its own terms.

Acts 2007, No. 689, § 3: Mar. 29, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas cities are faced with ever-increasing problems of providing services to their citizens caused by a combination of globalization, rapid technological change, rising citizen expectations, mandates from higher levels of government, and a constrained tax base which together have created a context in which more effective and efficient methods of governance have become mandatory; and that this act is immediately necessary to meet these needs and for the efficiency of government. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 729, § 3: Mar. 30, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Arkansas cities are faced with ever increasing problems of providing services to their citizens caused by a combination of globalization, rapid technological change, rising citizen expectations, the need for more accountability, mandates from higher levels of government, and a constrained tax base which together have created a context in which more effective and efficient methods of governance have become mandatory; and that this act is immediately necessary to meet these needs and for the efficiency of government. Therefore, an

emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 608, § 2: Mar. 23, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain statutes require the chief executive officer to serve on certain boards and commissions; that in a city manager form of government there is no chief executive officer; and that this act is immediately necessary because it makes clear that the mayor is the chief executive officer and allows the mayor to appoint the city manager as his or her designee to serve on essential boards and commissions. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 801, § 2: Mar. 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the ability to utilize citizens as members of municipal boards, commissions, and task forces is essential to carrying out the functions of local government; that the restriction in this statute threatens the ability to attract citizen volunteers; and that this act is immediately necessary because of the dire need of municipalities to be able to use these volunteer citizens. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1185, § 21: Oct. 2, 2011.

14-47-106. Election on city manager form of government.

(a) Any city in this state having a population of two thousand five hundred (2,500) or more according to the most recent federal census may call and hold an election to determine whether or not the city shall be organized under and governed by the manager form of city government as provided for in this chapter.

(b) The proceeding shall be in the following manner:

(1)(A) When petitions containing the signatures of electors equal in number to fifteen percent (15%) of the aggregate number of ballots

cast for all candidates for mayor in the preceding general city election are presented to the mayor, the mayor by proclamation shall submit the question of organizing the city under the manager form of government to the electors of the city at a special election to be held in accordance with § 7-11-201 et seq.

(B) The proclamation shall be published at length in some newspaper published in the city for one (1) time, and notice of the election shall be published in some newspaper published in the city one (1) time a week for two (2) weeks, the first publication to be not less than fifteen (15) days before the date set for the election. No other notice of the election shall be necessary;

(2)(A) At the special election for the submission or resubmission of the proposition, the ballots shall contain substantially the following:

"FOR the proposition to organize this city under Act 99 of the General Assembly of 1921, as amended ..... ☐

AGAINST the proposition to organize this city under Act 99 of the General Assembly of 1921, as amended ..... ☐"

(B)(i) The election thereon shall be conducted, the vote canvassed, and the result thereof declared in the same manner as provided by law in respect to other city elections.

(ii) The county board of election commissioners shall certify the result to the mayor. This result shall be conclusive and not subject to attack unless suit is brought in the circuit court of the county in which the city is situated to contest the certification within thirty (30) days after the certification;

(3)(A) If a majority of the votes cast on the proposition is against the organization of the city under this chapter, the question of adopting the manager form of government shall not be resubmitted to the voters of that city for adoption within four (4) years thereafter. It shall be resubmitted then only upon presentation to the mayor of petitions signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots cast for all candidates for mayor at the preceding general city election.

(B)(i) If a majority of the votes cast on the proposition at any such election shall be for the organization of the city under this chapter, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and with the county clerk of the county in which the city is situated. The mayor shall call a special election to be held in the city for the purpose of electing seven (7) city directors.

(ii) This election shall be called and conducted and the results determined and certified as provided in § 14-47-110.

History. Acts 1921, No. 99, § 2; Pope's Dig., § 10090; Acts 1947, No. 403, § 1; 1957, No. 8, § 2; 1965, No. 157, § 1; A.S.A. 1947, § 19-702; Acts 2005, No. 2145, § 31; 2007, No. 1049, § 50; 2009, No. 1480, § 68.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b)(1)(A).

14-47-107. Subsequent election on aldermanic form of government.

(a)(1) After the expiration of six (6) years after the date on which the first board of directors takes office in a city organized under this chapter, a petition may be presented to the mayor. It shall be signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots cast for the position of mayor in the immediately preceding mayoral general election. Whereupon, the mayor by proclamation shall submit the question of organization of the city under the aldermanic form of government at a special election to be held in accordance with § 7-11-201 et seq.

(2) The proclamation shall be published at length one (1) time in some newspaper published in the city. Notice of the election shall be published in some newspaper published in the city one (1) time a week for two (2) weeks, the first publication to be not less than fifteen (15) days before the date set for the election. No other notice of the election shall be necessary.

(b) If the plan is not adopted by a majority of the voters voting upon that issue at the special election called, the question of adopting the aldermanic form of government shall not be resubmitted to the voters of the city for adoption within four (4) years thereafter. Then the question to adopt shall be resubmitted upon the presentation to the mayor of a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of votes cast for the position of mayor in the immediately preceding mayoral general election.

(c) At the special election for the submission or resubmission of the proposition, the ballots shall read:

"FOR the proposition to organize this city under the aldermanic form of government ..... ☐

AGAINST the proposition to organize this city under the aldermanic form of government ..... ☐"

(d)(1) The election thereupon shall be conducted, the votes canvassed, and the result declared in the same manner as provided by law in respect to other city elections.

(2)(A) The county board of election commissioners shall certify the result to the mayor.

(B) The result shall be conclusive and not subject to attack unless suit is brought within thirty (30) days after the certification by the county board of election commissioners in the circuit court of the county in which the city is situated to contest the certification.

(e) If the majority of the votes cast on the issue shall be in favor thereof, the city shall thereupon proceed to the election of all of the city officials who were subject to election in the city immediately prior to the

date on which the city was organized under the management form of city government.

(f) If no suit is brought to contest the certification of the results of the election within the thirty-day period after the certification, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and county clerk of the county in which the city is situated.

(g)(1) The election of the city officials shall be held at the next time provided for the election of city officials under the statutes then in effect pertaining to the aldermanic form of government pertaining to the class of cities to which the particular city belongs.

(2)(A) All laws pertaining to the aldermanic form of government for such class of cities shall apply.

(B)(i) On the date as prescribed by such laws when newly elected city officials take office, the term of office of all members of the board of directors shall terminate, and the transition to the aldermanic form of government shall be completed.

(ii) If, under the aldermanic form of government, the terms of aldermen are staggered, determination shall be made by lot and the length of the terms fixed accordingly.

(h) The provisions of this section for converting to the aldermanic form of government shall be in addition to the right to change to the aldermanic or any other form of municipal government that may exist under present law.

(i)(1) When a municipality elects to adopt the aldermanic form of government in the manner provided in this section, the question of reorganizing the municipality under the manager form shall not be submitted to the electors within a period of six (6) years, and thereafter only in the manner provided in § 14-47-106.

(2) If the qualified electors of the municipality do not approve the organization of the municipality under the manager form at the election, the proposition shall not again be submitted to the electors of the city for a period of four (4) years, and then only in the manner provided in § 14-47-106.

History. Acts 1957, No. 8, § 26, as added by Acts 1957, No. 389, § 1; 1965, No. 22, § 1; 1965, No. 157, § 2; A.S.A. 1947, § 19-733; Acts 2005, No. 2145, § 32; 2007, No. 1049, § 51; 2009, No. 1480, § 69; 2013, No. 1291, § 1.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (a)(1).

The 2013 amendment substituted "for the position of mayor" for "for all candidates for director in that position for which the greatest number of ballots were cast" in (a)(1) and (b); inserted "one (1) time" preceding "in some newspaper" in (a)(2); and inserted "immediately" and "mayoral" in (a)(1) and (b).

14-47-108. Effect of reorganization.

(a)(1) A reorganization is effective when in connection with the reorganization of a municipality under this chapter an initial board of directors shall be elected and the respective terms of office of the

directors commence or when changes are made under subdivision (a)(2)(D) of this section.

(2) Concurrent with the commencement of the terms of the directors:

(A) The office of mayor, as existing under the aldermanic form of government, all memberships on the city council, and all memberships on the board of public affairs shall become vacant, each of these offices being abolished as to cities reorganized under this chapter;

(B) Subject to subdivision (a)(2)(D) of this section and except as is otherwise provided for city attorneys in cities with the city manager form of government, the statutory term of office of the city treasurer, city clerk, city attorney, city marshal, and recorder in cities of the second class shall cease and terminate, and the incumbent of each of these offices shall remain in office subject to removal and replacement at any time by the board of directors;

(C) Subject to subdivision (a)(2)(D) of this section, in cities with the city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the statutory term of office of the city attorney shall cease and terminate, and the incumbent city attorney shall remain in office subject to removal and replacement at any time by the city manager, if the authority is vested in the city manager through:

(i) An ordinance of the board of directors; or

(ii) An initiated measure adopted pursuant to Arkansas Constitution, Amendment 7.

(D) In cities with the city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the statutory term of office of the city attorney shall cease and terminate, and the incumbent city attorney shall remain in office subject to removal and replacement at any time by the mayor if the authority is vested in the mayor under § 14-47-140; and

(E)(i) Every other executive officer or executive employee of the city, including, without limiting the foregoing, the city purchasing agent and the members hereinafter called "board members" of every other municipal board, authority, or commission, whether the office, employment, board, authority, or commission exists under statute or under any ordinance or resolution, whose official term of office or employment is fixed by statute, ordinance, or resolution, shall serve until the expiration of the term so fixed, after which the position held by each such executive officer, executive employee, or board member shall be filled through appointment by the board of directors, the appointees to hold at the will of the board. However, at any time in cities with the city manager form of government, the appointments shall be made by the mayor and appointees shall hold at the will of the mayor, if the mayor is authorized to make the appointments by:

(a) The board of directors, by ordinance; or

(b) An initiated measure adopted pursuant to Arkansas Constitution, Amendment 7.

(ii) Each such executive officer or executive employee serving on the effective date of the reorganization, and whose office or employment carries no fixed term created either by statute, ordinance, or resolution shall be subject to removal and replacement at any time by the board of directors or the mayor, if authorized.

(iii) However, the provisions of this subdivision (a)(2)(E) shall be subject to the provisions of subsection (b) of this section and to the exceptions therein contained.

(b)(1) It is expressly directed that a reorganization under this chapter shall not affect, impair, or terminate the employment of any city officers or employees whose employment is subject to, or regulated by, civil service laws.

(2)(A) The reorganization shall not operate to abolish, terminate, or otherwise affect any of the following departments, commissions, authorities, agencies, or offices of the city government then existing:

(i) Waterworks commission existing under §§ 14-234-301 — 14-234-309;

(ii) Sewer committee existing under § 14-235-206;

(iii) Airport commission existing under § 14-359-103;

(iv) Housing authority existing under § 14-169-208;

(v) Any board of civil service commissioners serving under § 14-49-201 et seq., § 14-50-201 et seq., § 14-51-201 et seq., or under any other statute enacted;

(vi) Auditorium commission existing under § 14-141-104;

(vii) Library trustees existing under § 13-2-502;

(viii) City planning commission existing under Acts 1929, No. 108, § 1 [repealed]; or

(ix) Board of commissioners of any improvement district.

(B)(i) The reorganization shall not terminate, impair, or otherwise affect the official status, tenure of office, or powers of the persons serving as commissioners, committee members, trustees, or members of any of the boards, authorities, commissions, agencies, or departments listed in this subdivision.

(ii) This power, whether consisting of the power to appoint or the power to confirm appointments or nominations, as may be vested in the municipal council immediately prior to the reorganization in respect to the filling of vacancies on the boards, authorities, commissions, agencies, departments, or in the judgeships listed in this subdivision (b)(2)(B) shall be transferred to and vested in the board of directors or the mayor, if the mayor has appointment power pursuant to § 14-47-108(a)(2)(E). Each appointee designated by the board or by the mayor, if authorized, to fill a vacancy in any such position shall serve for the statutory term, if any, applicable to the vacancy or, if there is no statutory term, shall serve at the will of the board or the mayor, if authorized.

History. Acts 1921, No. 99, § 3; Pope's Dig., § 10091; Acts 1957, No. 8, § 3; Acts 1957, No. 226, § 1; A.S.A. 1947, § 19-703; Acts 2001, No. 1472, § 1; 2001, No. 1473,

§§ 1, 2; 2003, No. 1185, § 28; 2003, No. 1185, § 29; 2007, No. 689, § 2; 2007, No. 729, § 1.

Cross References. Transition provisions, tenure of present justices and judges, and jurisdiction of present courts, Ark. Const. Amend. 80, § 19.

14-47-110. Election of directors.

(a) Candidates for the office of director shall be nominated and elected as follows:

(1)(A)(i) A special election to elect the initial membership of the board shall be called by the mayor as provided in § 14-47-106.

(ii) The mayor's proclamation shall be in accordance with § 7-11-101 et seq.

(B)(i) A special election to fill any vacancy under § 14-47-113 shall be called through a resolution of the board of directors.

(ii) A proclamation announcing the holding of the election shall be signed by the mayor and published in accordance with § 7-11-101 et seq.;

(2) The petition mentioned in subdivision (a)(3) of this section supporting the candidacy of each candidate to be voted upon at any general or special election shall be filed with the city clerk or recorder not more than one hundred two (102) days nor fewer than eighty-one (81) days before the election by 12:00 noon;

(3)(A)(i) In respect to both special and general elections, the name of each candidate shall be supported by a petition, signed by at least fifty (50) qualified electors of the municipality, requesting the candidacy of the candidate.

(ii) The petition shall show the residence address of each signer and shall carry an affidavit signed by one (1) or more persons, in which the affiant or affiants shall vouch for the eligibility of each signer of the petition.

(B) Each petition shall be substantially in the following form:

"The undersigned, duly qualified electors of the City of ..., Arkansas, each signer hereof residing at the address set opposite his or her signature, hereby request that the name... be placed on the ballot as a candidate for election to Position No. ... on the Board of Directors of said City of ... at the election to be held in such City on the ... day of ..., 20.... We further state that we know said person to be a qualified elector of said City and a person of good moral character and qualified in our judgment for the duties of such office."

(C) A petition for nomination shall not show the name of more than one (1) candidate.

(D)(i) The name of the candidate mentioned in each petition, together with a copy of the election proclamation if the election is a special election, shall be certified by the city clerk or recorder to the county board of election commissioners not less than seventy-five (75) days before the election unless the clerk or recorder finds that the petition fails to meet the requirements of this chapter.

(ii)*(a)* Whether the names of the candidates so certified to the county board of election commissioners are to be submitted at a

biennial general election or at a special election held on a different date, the election board shall have general supervision over the holding of each municipal election.

(b) In this connection, the board shall post the nominations, print the ballots, establish the voting precincts, appoint the election judges and clerks, determine and certify the result of the election, and determine the election expense chargeable to the city, all in the manner prescribed by law in respect to general elections. It is the intention of this chapter that the general election machinery of this state shall be utilized in the holding of all general and special elections authorized under this chapter.

(c) The result of the election shall be certified by the election board to the city clerk or recorder; and

(4) The candidate for any designated position on the board of directors who, in any general or special election, shall receive votes greater in number than those cast in favor of any other candidate for the position shall be deemed to be elected.

(b) Each director, before entering upon the discharge of his or her duties, shall take the oath of office required by the Arkansas Constitution, Article 19, § 20.

History. Acts 1921, No. 99, §§ 5, 8; Pope's Dig., §§ 10093, 10096; Acts 1957, No. 8, §§ 5, 6; 1965, No. 6, § 1; A.S.A. 1947, §§ 19-705, 19-708; Acts 1989, No. 347, § 1; 1993, No. 541, § 1; 2001, No. 552, § 1; 2005, No. 2145, § 33; 2007, No. 1049, § 52; 2009, No. 1480, § 70; 2011, No. 1185, § 20.

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in (a)(1)(A)(ii) and (a)(1)(B)(ii).

The 2011 amendment substituted "not more than one hundred two (102) days nor fewer than eighty-one (81) days" for "not more than ninety (90) days nor fewer than seventy (70) days" in (a)(2); and substituted "seventy-five (75)" for "thirty-five (35)" in (a)(3)(D)(i).

14-47-112. Removal of director.

RESEARCH REFERENCES

ALR. Constitutionality of state and local recall provisions. 13 A.L.R.6th 661.

14-47-119. Employment of city manager.

(a)(1)(A) The initial board of directors, as promptly as possible after effecting its organization, shall employ a city manager.

(B) However, in cities with the city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the mayor may be authorized to employ a city manager. The mayor may be authorized by:

(i) An ordinance of the initial board; or

(ii) An initiated measure, adopted pursuant to Arkansas Constitution, Amendment 7, authorizing the mayor to employ a city

manager. If the authority is vested by an initiated measure, the board shall not have the power to rescind the authority.

(2)(A) The city manager's employment shall be for an indefinite term.

(B) Thereafter, subject only to such interruptions as are unavoidable, a city manager shall be maintained in the employ of the city.

(3) The appointment and continued employment by the board or mayor of a city manager shall be mandatory.

(b)(1) It shall not be essential that the city manager, at the time of his or her employment, be a qualified elector of the city or of the State of Arkansas or a resident of the city or of the State of Arkansas.

(2) However, the city manager shall be a person found by the board or mayor to have special qualifications in respect to the management of municipal affairs.

(3) During his or her employment, the city manager shall reside in the city and devote his or her full time to the business of the city.

(4) Notwithstanding the provisions of subdivision (b)(3) of this section regarding the residency requirements for city managers, the city manager of a city with a city manager form of government and with a population of fewer than six thousand (6,000) persons, upon approval of a majority of the board, may reside outside the city during his or her employment as city manager.

(c) A member of the board may not be appointed city manager nor acting city manager during the term for which he or she shall have been elected nor within three (3) years following the expiration of the member's term of office as director or mayor.

(d) The city manager shall receive a salary in such amount as may be fixed by the board.

(e) The board, on the vote of a majority of its elected membership, or the mayor, if authorized pursuant to subsection (a) of this section, may terminate the city manager's employment at any time, either with or without cause.

(f)(1) The city manager shall furnish a fidelity bond, the premiums on which shall be paid by the city, in such amount, on such form, and with such security as may be approved by the board.

(2) The bond, in no event, shall be less than twenty-five thousand dollars ($25,000).

History. Acts 1921, No. 99, § 12; Pope's Dig., § 10100; Acts 1957, No. 8, § 7; A.S.A. 1947, § 19-712; Acts 1987, No. 25, § 1; 2001, No. 1790, § 1.

14-47-120. Powers and duties of city manager.

The city manager shall have the following powers and duties:

(1)(A) To the extent that such authority is vested in him or her through an ordinance enacted by the board of directors, a city manager may supervise and control all administrative departments, agencies, offices, and employees.

(B) In addition, in cities with a city manager form of government having a population of more than one hundred thousand (100,000) persons according to the most recent federal decennial census, the city manager also shall have the authority to supervise and control the city attorney and may remove and replace the city attorney at any time at the city manager's discretion if the city manager has been given the authority to remove and replace the city attorney pursuant to § 14-47-108(a)(2);

(2) He or she shall represent the board in the enforcement of all obligations in favor of the city or its inhabitants which are imposed by law, or under the terms of any public utility franchise, upon any public utility;

(3) He or she may inquire into the conduct of any municipal office, department, or agency which is subject to the control of the board, in which connection he or she shall be given unrestricted access to the records and files of any such office, department, or agency and may require written reports, statements, audits, and other information from the executive head of the office, department, or agency;

(4)(A)(i) Except as provided in subdivision (4)(A)(ii) of this section, he or she shall nominate, subject to confirmation by the board, persons to fill all vacancies at any time occurring in any office, employment, board, authority, or commission to which the board's appointive power extends.

(ii) If the mayor has appointment power pursuant to § 14-47-108(a)(2)(C), the nominations shall be made by the mayor.

(B)(i) He or she may remove from office all officials and employees, including, without limiting the foregoing, members of any board, authority, or commission who under laws, whether applicable to cities under the aldermanic or management form of government, may be removed by the city's legislative body.

(ii)*(a)* Removal by the city manager shall be approved by the board.

(b) Where, under the statute applicable to any specific employment or office, the incumbent may be removed only upon the vote of a specified majority of the city's legislative body, the removal of the person by the city manager may be confirmed only upon the vote of the specified majority of the members.

(C) The provisions of this subdivision (4) shall have no application to offices and employments controlled by any civil service or merit plan lawfully in effect in the city.

(5)(A) To the extent that, and under such regulations as, the board may prescribe by ordinance, he or she may:

(i) Contract for and purchase, or issue purchase authorizations for, supplies, materials, and equipment for the various offices, departments, and agencies of the city government, and he or she may contract for, or authorize contracts for, services to be rendered to the city or for the construction of municipal improvements. However, in such connection, the board shall, by ordinance, establish a maximum

amount, and each contract, purchase, or authorization exceeding the amount so established shall be effected after competitive bidding as required in § 14-47-138;

(ii) Approve for payment, out of funds previously appropriated for that purpose, or disapprove any bills, debts, or liabilities asserted as claims against the city. However, the board shall, by ordinance, establish in that connection a maximum amount, and the payment or disapproval of each bill, debt, or liability exceeding that amount shall require the confirmation of the board or of a committee of directors created by the board for this purpose;

(iii) Sell or exchange any municipal supplies, materials, or equipment. The board shall, by ordinance, establish an amount, and no item or lot, to be disposed of as one (1) unit, of supplies, materials, or equipment shall be sold without competitive bidding unless the city manager shall certify in writing that, in his or her opinion, the fair market value of the item or lot is less than the amount established by ordinance as prescribed; and

(iv) Transfer to any office, department, or agency or he or she may transfer from any office, department, or agency to another office, department, or agency any materials and equipment.

(B) For the purpose of assisting the city manager in transactions arising under subdivisions (5)(A)(i)-(iii) of this section, the board may appoint one (1) or more committees to be selected from its membership. Or in the alternative, it may create one (1) or more offices or departments to be composed of personnel approved by the city manager. If, for these purposes, the board shall create any new office or department, the person appointed to fill the office or to head the department shall be responsible to the city manager and act under his or her direction;

(6) He or she shall prepare the municipal budget annually and submit it to the board for its approval or disapproval and be responsible for its administration after adoption;

(7) He or she shall prepare and submit to the board, within sixty (60) days after the end of each fiscal year, a complete report on the finances and administrative activities of the city during the fiscal year;

(8) He or she shall keep the board advised of the financial condition and future needs of the city and make such recommendations as to him or her may seem desirable;

(9) He or she shall sign all municipal warrants when authorized by the board to do so;

(10) He or she shall have all powers, except those involving the exercise of sovereign authority, which, under statutes applicable to municipalities under the aldermanic form of government or under ordinances and resolutions of the city in effect at the time of its reorganization, may be vested in the mayor; and

(11) He or she shall perform such additional duties and exercise such additional powers as may, by ordinance, be lawfully delegated to him or her by the board.

History. Acts 1921, No. 99, § 12; Pope's Dig., § 10100; Acts 1957, No. 8, § 7; A.S.A. 1947, § 19-712; Acts 1987, No. 25, § 1; 2001, No. 1790, § 1; 2003, No. 1185, § 30.

14-47-121. Acting city manager.

(a) If the city manager is absent from the city or is unable to perform his or her duties, if the board of directors or the mayor, if authorized, suspends the city manager, or if there is a vacancy in the office of city manager, the board, by resolution, or the mayor, if authorized to employ the city manager pursuant to § 14-47-119(a), may appoint an acting city manager to serve until the city manager returns, until his or her disability or suspension ceases, or until another city manager is appointed and qualifies, as the case may be.

(b) The board or the mayor, if authorized, may suspend or remove an acting city manager at any time.

(c)(1) The board, in the exercise of its discretion, or the mayor, if authorized, may determine whether the acting city manager shall furnish bond.

(2) If in any instance, the board requires the acting city manager to furnish bond, it shall, in respect to form, amount, and security, be subject to the approval of the board or the mayor.

(d) The acting city manager shall receive a reasonable compensation to be fixed by the board.

History. Acts 1921, No. 99, § 12; 1957, No. 8, § 7; A.S.A. 1947, § 19-712; Acts 2001, No. 1790, § 2.

14-47-122. [Repealed.]

Publisher's Notes. This section, concerning police courts, was repealed by Acts 2003, No. 1185, § 31. The section was derived from Acts 1921, No. 99, §§ 9-11; Pope's Dig., §§ 10097-10099; A.S.A. 1947, §§ 19-709 — 19-711.

14-47-126. Annual audit.

The board of directors shall be obligated to have the financial affairs of the city audited annually by the Division of Legislative Audit of the State of Arkansas or by an independent certified public accountant who is not otherwise in the service of the city.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; A.S.A. 1947, § 19-716; Acts 2011, No. 623, § 1.

Amendments. The 2011 amendment inserted "the Division of Legislative Audit of the State of Arkansas or by."

14-47-131. Creation of new departments, etc.

(a) The board of directors may from time to time by ordinance:

(1) Create any new municipal:

(A) Department;

(B) Office;

(C) Employment;
(D) Board;
(E) Authority;
(F) Commission; or
(G) Agency;

(2)(A) Appoint the personnel to serve in the department, office, employment, board, authority, commission, or agency.

(B) However, the appointment of personnel shall be by the mayor if the mayor has appointment power pursuant to § 14-47-108(a)(2)(C);

(3) Fix the term of employment and compensation of each appointee; and

(4) Specify whether each appointee shall, or shall not, be subject to the city's civil service or merit system.

(b)(1) By ordinance, the board also, in the exercise of its discretion, may consolidate the office of city treasurer with the office of city clerk or such other office or position as the board, by ordinance, may charge with the responsibility of administering the financial affairs of the city.

(2) The board may:

(A) Delegate all of the duties of the city treasurer to the person holding that office or position in the city;

(B) Fill the consolidated office by appointment;

(C) Fix the term and compensation of the appointee; and

(D) Specify whether the appointee shall be subject to the city's civil service or merit system.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; 1959, No. 50, § 1; A.S.A. 1947, § 19-716; Acts 2001, No. 1473, § 4.

14-47-132. Vacancy on municipal board, etc.

(a) Any vacancy on any municipal board or commission of any city of the first class having a population of fewer than fifty thousand (50,000) and having a city manager form of government shall be filled by a majority vote of the board of directors of the city or by the mayor, if the mayor has appointment power pursuant to § 14-47-108(a)(2)(C).

(b)(1) The provisions of this section shall apply to all existing boards and commissions and to all boards and commissions hereafter established in which vacancies are filled by the remaining members of the board or commission or by the city manager.

(2) The provisions of this section shall not be applicable to any Arkansas city which is divided by a state line from an incorporated city or town in an adjoining state.

History. Acts 1971, No. 74, §§ 1, 2; A.S.A. 1947, §§ 19-734, 19-735; Acts 2001, No. 1473, § 5.

14-47-133. Appointees generally.

(a) Subject to the exceptions contained in § 14-47-108, every person appointed by the board of directors or by the mayor, if authorized as provided in § 14-47-108(a)(2)(C), to any municipal office, employment, or position or to membership on any board, authority, or commission shall serve for such time and shall receive such compensation as the board of directors may fix and determine by ordinance.

(b) This section shall be applicable even in respect to offices and employments which, under statutes applicable to the aldermanic form of government, were held for a fixed term or on a salary basis fixed by statute.

History. Acts 1921, No. 99, § 16; 1957, No. 8, § 10; A.S.A. 1947, § 19-716; Acts 2001, No. 1473, § 6.

14-47-134. Qualifications of appointees.

(a)(1)(A) In the exercise by the board of directors of its authority in respect to the filling of vacancies in executive positions and memberships on municipal boards, authorities, and commissions, only those qualified electors of the city found by the directors to possess the necessary qualifications shall be appointed or confirmed.

(B) Provided, a board of directors may appoint, at its discretion, persons who reside outside the city to museum boards and commissions.

(b)(1) In filling vacancies on any municipal board, authority, or commission, unless the statute applicable to the position forbids the appointment thereto of a city employee, the city manager, if otherwise qualified, shall be an eligible appointee.

(2) The city manager, however, shall not be, ex officio, a member of any municipal board, authority, or commission.

History. Acts 1921, No. 99, § 3; 1957, No. 8, § 3; 1967, No. 165, § 1; A.S.A. 1947, § 19-703; Acts 1999, No. 1295, § 2.

A.C.R.C. Notes. Acts 1999, No. 1295, § 1, provided: "Legislative Findings. The current Arkansas law concerning qualifications for appointment to municipal boards, authorities, and commissions in cities operated under the city manager form of government limits appointment, with one (1) exception, to qualified electors of the city. However, museums attract many visitors from outside the city and develop a statewide utilization in addition to the local use. The appointment of persons who reside outside the city to these museum boards and commissions would enhance financial support for the local facility and increase daily attendance. It is thus appropriate in certain circumstances, in the sound discretion of the city board of directors, to provide for the appointment of persons who reside outside the city limits to such museum boards and commissions."

14-47-137. Prohibited actions by officers or employees.

(a)(1) An officer or employee elected or appointed in any city shall not be interested, directly or indirectly, in any contract or job for work or

materials, or the profits, or service to be furnished or performed for the city unless the board of directors of the city has enacted an ordinance specifically permitting an officer or employee to conduct business with the city and prescribing the extent of this authority.

(2) This prohibition shall not apply to contracts for the furnishing of supplies, equipment, or services to be performed for a municipality by a corporation in which an officer does not hold any executive or managerial office or by a corporation in which a controlling interest is held by stockholders who are not officers or employees.

(3) This prohibition shall not apply to contracts for the furnishing of supplies, equipment, or services to be performed for a municipality by a volunteer who has been appointed to a municipal board, municipal commission, or municipal task force.

(b)(1) An officer or employee shall not accept or receive, directly or indirectly, any frank, pass, free ticket, or free service from any person, firm, or corporation operating within the territorial limits of the city any public transportation service, gas works, waterworks, electric light or power plant, heating plant, telegraph line or telephone exchange, or other business acting or operating under a public franchise of the city; nor shall any officer or employee accept or receive, directly or indirectly, from any person, firm, or corporation, or its agents, any other service upon terms more favorable than those granted to the public generally.

(2) The prohibition of free transportation shall not apply to police officers or firefighters in uniform; nor shall any free service to city officials heretofore provided by franchise or ordinance be affected by this subsection.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor and fined in a sum of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000), and every such contract or agreement shall be void.

History. Acts 1921, No. 99, § 16; Pope's Dig., § 10104; Acts 1957, No. 8, § 10; 1983, No. 650, § 2; A.S.A. 1947, § 19-716; Acts 2011, No. 801, § 1.

Amendments. The 2011 amendment added (a)(3).

14-47-140. Authorization for election concerning mayor.

(a)(1) Any municipality organized and operating under the city manager form of government may authorize the mayor of the municipality to have the following duties and powers if approved by the qualified electors of the municipality at an election called by the municipal board of directors by referendum or by the qualified electors of the municipality by initiative:

(A)(i) The power to veto an ordinance, a resolution, or an order adopted by the board of directors.

(ii)*(a)* The municipal board of directors may override the veto by a two-thirds vote of the number of members of the board.

(b) The mayor shall be entitled to vote only in case of a tie vote, and his or her presence may be counted to establish a quorum for the conduct of business;

(B) The power to appoint, subject to confirmation by a majority of the members of the board of directors, persons to fill vacancies on any board, authority, or commission of the municipality;

(C) The power to hire the city manager, subject to the approval of a majority of members of the municipal board of directors, and to designate the city manager to serve in the mayor's stead on any board or commission that requires the service of the chief executive officer of the city;

(D) The power to remove the city manager, subject to the approval of a majority of the members of the municipal board of directors;

(E) The power to prepare and submit to the board of directors for its approval the annual municipal budget;

(F) The power to hire the city attorney, subject to the approval of a majority of members of the municipal board of directors; and

(G) The power to remove the city attorney, subject to the approval of a majority of members of the municipal board of directors.

(2) If the petition under subdivision (a)(1) of this section is approved by a majority of the qualified electors of the municipality, the mayor shall have the powers and duties authorized under subdivision (a)(1) of this section.

(3)(A) Subdivisions (a)(1) and (2) of this section shall not apply to offices and employments controlled by any civil service or merit plan lawfully in effect in the municipality.

(B) In municipalities that maintain municipal courts or police courts, the municipal judge, police judge, and the clerk of both courts shall be elected and appointed in the manner prescribed by law.

(4) A mayor who has the duties and powers authorized under subdivision (a)(1) of this section shall be compensated with salary and benefits comparable to the salary and benefits of an official or employee of the municipality with similar executive duties and powers.

(b) If called by initiative of the qualified electors of the municipality, the special election under this section shall comply with the following:

(1) A petition under subsection (a) of this section shall be filed with the clerk of the city;

(2) Each signature on a petition filed shall have been signed within one hundred eighty (180) days prior to filing;

(3) The clerk of the city shall note on the petition the date and time filed; and

(4) If a petition contains the signatures of electors equal in number to fifteen percent (15%) of the number of ballots cast for the mayor in the last mayoral election, or if the mayor is not directly elected, for the director position receiving the highest number of votes in the last general election, then the clerk of the city shall deliver the petitions to the mayor who shall by proclamation submit the question to the electors at a special election, provided that:

(A) The clerk of the city shall verify the number of signatures and the authenticity of the signatures on the petition within ten (10) days of the date they are filed;

(B) If there are insufficient signatures on the petition, the petitioners shall not receive an extension for the petition; and

(C) If there is a sufficient number of signatures on the petition but the clerk of the city is unable to verify the required number of signatures and the authenticity of the signatures, then the petitioners shall be given ten (10) days to provide a sufficient number of verified signatures.

(c) The proclamation submitting the question under subsection (a) of this section to the qualified electors of the municipality shall be issued within three (3) working days of the date the clerk of the city verifies the number of signatures on the petition or within three (3) working days of the date a referendum ordinance is passed by the board of directors.

(d) The special election shall be held not less than thirty (30) days nor more than one hundred twenty (120) days after the proclamation.

(e)(1) If both a petition is filed by the qualified electors of the municipality and the number of signatures and the authenticity of the signatures are verified under subdivision (b)(4) of this section and a referendum ordinance is passed by the board of directors referring the question under subsection (a) of this section to the qualified electors of the municipality, the event that occurs last in time is moot and void.

(2) If two (2) or more groups file petitions seeking a special election under subsection (a) of this section and the petition filed first is declared insufficient, then the city clerk shall determine the sufficiency of the petition that was filed next in time.

(3) Upon a declaration that a petition is sufficient and first in time, then a petition filed after the first sufficient petition and before the special election shall be deemed moot and shall be destroyed.

(f) If an election held under subsection (a) of this section results in the adoption of the question under subsection (a) of this section, then the adopted question shall not be presented again to the electors for a period of four (4) years from the date of the election.

(g) If an election held under subsection (a) of this section results in the failure to adopt the question under subsection (a) of this section, then the failed question shall not be presented again to the electors for a period of two (2) years from the date of the election.

(h) Notice of the election shall be given by the clerk of the city by one (1) publication in a newspaper having general circulation within the city not less than ten (10) calendar days before the election.

(i) Within thirty (30) calendar days after completion of the tabulation of the votes, the mayor of the city shall proclaim the results of the election by issuing a proclamation and publishing it one (1) time in a newspaper having general circulation within the city.

(j) The results of the election as stated in the proclamation shall be conclusive unless a suit contesting the proclamation is filed in the circuit court in the county where the election took place within thirty (30) calendar days after the date of publication of the proclamation.

(k) If the question under subsection (a) of this section is approved at an election as provided in this section, that approval shall be final and shall continue in effect thereafter as long as authorized.

(l) The mayor shall continue to be selected under § 14-61-111.

(m) At the time of a transition after an election as provided in this section, the current mayor shall continue to serve until the end of his or her elected term.

History. Acts 2007, No. 689, § 1; 2011, No. 608, § 1.

Amendments. The 2011 amendment inserted "municipal" in (a)(1), (a)(1)(A)(ii)(*a*), (a)(1)(C), (D), (F) and (G); and added "and to designate the city manager to serve in the mayor's stead on any board or commission that requires the service of the chief executive officer of the city" at the end of (a)(1)(C).

CHAPTER 48

CITY ADMINISTRATOR FORM OF MUNICIPAL GOVERNMENT

Effective Dates. Acts 2003, No. 1185, § 32: Jan. 1, 2005, by its own terms.

Acts 2003, No. 1185, § 33: Jan. 1, 2005, by its own terms.

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-48-104. Submission of governmental form question to electors.

(a) When petitions shall be filed with the county clerk containing the signatures of qualified electors of a municipality equal in number to fifteen percent (15%) of the aggregate number of votes cast at the preceding general municipal election for all candidates for mayor in cases where a municipality operates under the aldermanic form of government or the commission form of government and, for all candidates for the office of director, then for the director position for which the greatest number of votes were cast in the case of a municipality operating under the city manager form of government, and the petition requests that an election be called to submit the proposition of organizing the municipality under the city administrator form of municipal government authorized by this chapter, then the county clerk shall, within ten (10) days after the filing of the petition, certify to the Secretary of State the number of qualified electors whose signatures appear on the petitions.

(b) If the number of signatures certified by the clerk is equal to or greater than fifteen percent (15%) of the aggregate number of votes cast, as prescribed, the Secretary of State shall call by proclamation in accordance with § 7-11-201 et seq., a special election to be held not more than ninety (90) days from the date of the clerk's certification.

(c)(1) The election shall be called to submit the proposition of organizing the municipality under the city administrator form of municipal government authorized by this chapter.

(2)(A) The proclamation shall be published one (1) time at length in a newspaper having a general circulation in the municipality.

(B) Notice of the election shall be published in the newspaper one (1) time a week for two (2) weeks, with the first publication to be not less than fifteen (15) days before the date set for the election.

(d) At the election, the proposition shall be submitted to the electors in substantially the following form:

"FOR the City Administrator form of government ..... ☐

AGAINST the City Administrator form of government ..... ☐"

(e)(1) The election shall be conducted, the votes canvassed, and the results declared in the same manner as is provided by law with respect to other city elections.

(2)(A) The county board of election commissioners shall certify the results of the election to the Secretary of State.

(B) The result certified shall be conclusive and not subject to attack unless suit is brought to contest the certification within fifteen (15) days after such certification in the circuit court of the county in which the municipality is situated.

(f) If a majority of the votes cast at the election shall be in favor of the proposition and no suit is brought to contest the certification of the results of the election within the fifteen-day period after the certification by the election board, then, within five (5) days, the Secretary of

State shall file certificates stating that the proposition was adopted with the county clerk of the county in which the municipality is situated.

(g) The cost of the election provided in this section shall be paid by the city.

History. Acts 1967, No. 36, § 2; A.S.A. 1947, § 19-802; Acts 2005, No. 2145, § 34; 2007, No. 1049, § 53; 2009, No. 1480, § 71.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b).

14-48-105. Procedure to change to another form of government.

(a) When the question of the adoption of the city administrator form of government is submitted to, and approved by, a majority of the qualified electors of a municipality voting on the issue, the question of changing to another form of government shall not again be submitted to the electors of that municipality for a period of four (4) years.

(b)(1) After the expiration of four (4) years from the date on which the first board of directors and mayor take office in a city organized under this chapter, a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of ballots cast for all candidates for mayor in the preceding general election may be presented to the mayor, calling for an election to consider any other form of municipal government authorized by the laws of this state.

(2)(A)(i) Thereupon, the mayor by proclamation in accordance with § 7-11-201 et seq., shall submit the question of organization of the city under the form of government stated in the petition at a special election to be held at a time specified therein.

(ii) The proclamation shall be published one (1) time at length in some newspaper having a general circulation in the city.

(B)(i) Notice of the election shall be published one (1) time a week for two (2) weeks in some newspaper having a general circulation in the city, the first publication to be not less than fifteen (15) days before the date set for the election.

(ii) No other notice of the election shall be necessary.

(c) At the special election for the submission or resubmission of the proposition, the ballots shall read:

"FOR the proposition to organize this City under the ..... form of government ..... ☐
AGAINST the proposition to organize this City under the ..... form of government ..... ☐"

The name of the form of government specified in the petition for election shall be printed on the ballot in lieu of the blank lines appearing above.

(d)(1) The election shall be conducted, the votes canvassed, and the results declared in the same manner as provided by law in respect to other city elections.

(2)(A) The county board of election commissioners shall certify the results to the mayor.

(B) The results shall be conclusive and not subject to attack unless suit is brought in the circuit court of the county in which the city is situated to contest the certification within thirty (30) days after certification by the county board of election commissioners.

(e) If no suit is brought to contest the certification of the results of the election on the question of the form of government within the thirty-day period after certification, the mayor shall file certificates stating that the proposition was adopted with the Secretary of State and county clerk of the county in which the city is situated.

(f)(1)(A) If the majority of the votes cast on that issue shall be in favor of the adoption, the city shall thereupon proceed to the election of all of the city officials required by the laws governing the form of government adopted.

(B) The election of the city officials shall be held at the next time provided for the election of city officials under the statutes then in effect pertaining to the form of government adopted for the class of cities to which the particular city belongs, and all laws pertaining to the form of government adopted for such class of cities shall apply.

(C)(i) On the date prescribed by these laws when newly elected city officials take office, the term of office of all members of the board and mayor shall terminate and the transition to the form of government adopted shall be completed.

(ii) If under the form of government adopted the terms of the officials elected are staggered, then determination shall be made by lot, and the length of the terms fixed accordingly.

(2) The provisions of this section for converting to another form of government shall be in addition to the right to change to any other form of municipal government that may exist under present law.

(g) If the plan is not adopted by a majority of the voters voting upon that issue at the special election called, the question of adopting that same form of government shall not be resubmitted to the voters of that city for adoption within four (4) years thereafter. At that time the question may be resubmitted upon the presentation to the mayor of a petition signed by electors equal in number to fifteen percent (15%) of the aggregate number of votes cast for all candidates for mayor in the preceding general election.

(h)(1) When a municipality elects to adopt any other form of government in the manner provided in this section, the question of reorganizing the municipality under the city administrator form shall not be submitted to the electors within a period of four (4) years, and thereafter, only in the manner provided in § 14-48-104.

(2) If the qualified electors of the municipality do not approve the organization of the municipality under the city administrator form at the election, the proposition shall not again be submitted to the electors of the city for a period of four (4) years, and then, only in the manner provided in § 14-48-104.

History. Acts 1967, No. 36, § 18; A.S.A. 1947, § 19-818; Acts 2005, No. 2145, § 35; 2007, No. 1049, § 54; 2009, No. 1480, § 72.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b)(2)(A)(i).

14-48-106. Effect of reorganization.

(a)(1) When, in connection with the reorganization of a municipality under this chapter, an initial board of directors shall be elected, the reorganization shall be deemed to be effective as of the time when the respective terms of office of the directors commence.

(2) Concurrently with the commencement of the terms of the directors:

(A) The office of mayor and the offices of the members of the city council in the case of the mayor-aldermanic form of government; the office of mayor and the offices of the other members of the board of commissioners in the case of the commission form of government; and the office of the mayor, the board of directors, and the city manager in the case of the city manager form of government shall become vacant;

(B) The statutory term of office of the city treasurer, city clerk, city attorney, city marshal, and recorder in cities of the second class shall cease and terminate. The incumbent of each of these offices shall remain in office subject to removal and replacement at any time by the city administrator, with the approval of the board of directors; and

(C)(i) Every other executive officer or executive employee of the city, including, without limiting the foregoing, the city purchasing agent and the members, hereinafter called "board members," of every other municipal board, authority, or commission, whether such office, employment, board, authority, or commission exists under statute or under any ordinance or resolution, whose official term of office or employment is fixed by statute, shall serve until the expiration of the term so fixed. Any of the executive officers or executive employees of the city and members of municipal boards, authorities, or commissions whose respective term of office is fixed by ordinance or resolution shall continue to serve until the expiration of the term so fixed or until the term is modified by ordinance or resolution. Thereafter, the position held by any such executive officer, employee, or board member shall be filled through appointment by the city administrator, with the approval of the board of directors, and the appointees shall hold their position at the will of the city administrator and the board of directors. However, definite terms may be provided for board members by ordinance.

(ii) Every executive officer, employee, or board member serving on the effective date of the reorganization whose office, employment, or board membership carries no fixed term created either by statute, ordinance, or resolution shall be subject to removal and replacement at any time by the board of directors.

(iii) The provisions of subdivision (a)(2)(C) of this section providing that the term of office of board members shall be held at the will of the

city administrator and the board of directors shall have no application to the statutory term, if any, of the boards, authorities, or commissions listed in subdivision (b)(2)(A) of this section.

(b)(1) Reorganization under this chapter shall not affect any civil service plan in effect for any city employees at the time of reorganization, except that commissioners, as their terms expire, shall thereafter be appointed by the city administrator, with the approval of the board of directors, and any city organized under this chapter which has no civil service plan at the time of reorganization may adopt a plan pursuant to the provisions of any statute under which it otherwise qualifies.

(2)(A) Reorganization under this chapter shall not operate to abolish or terminate any of the following listed departments, commissions, authorities, or agencies of the city government:

(i) Waterworks commission existing under §§ 14-234-301 — 14-234-309;

(ii) Sewer committee existing under § 14-235-206;

(iii) Airport commission existing under § 14-359-103;

(iv) Housing authority existing under § 14-169-208;

(v) Any board of civil service commissioners serving under § 14-49-201 et seq., § 14-50-201 et seq., or § 14-51-201 et seq.;

(vi) Auditorium commission existing under § 14-141-104;

(vii) Library trustees existing under § 13-2-502;

(viii) City planning commission existing under § 14-56-404; and

(ix) Parking authority existing under § 14-304-101 et seq.;

(B)(i) The reorganization shall not terminate, impair, or otherwise affect the official status, statutory tenure of office, if any, or powers of the persons serving as commissioners, committeemen, trustees, or members of any of the boards, authorities, commissions, agencies, or departments listed in this subdivision (b)(2)(A), except as specifically provided by this chapter.

(ii) Whether consisting of the power to appoint or the power to confirm appointments or nominations, such power as may be vested in the mayor and the municipal council or in the mayor and other municipal legislative body immediately prior to the reorganization in respect to the filling of vacancies on the boards, authorities, commissions, agencies, or departments listed in this subdivision shall be transferred to, and vested in, the city administrator, with the approval of the board of directors. Each appointee designated by the city administrator, with the approval of the board of directors, to fill a vacancy on any of these bodies shall serve for the statutory term, if any, applicable to the vacancy or, if there is no statutory term, shall serve at the will of the board. The boards, authorities, commissions, agencies, or departments listed in subdivision (b)(2)(A) of this section may be required by the board of directors, by ordinance duly adopted, to purchase all vehicles, equipment, materials, supplies, and services through a central municipal purchasing agent or department. The boards, authorities, commissions, agencies, or departments may be

required to adopt and conform to the city personnel policies duly adopted by ordinance or resolution, including, but not limited to, the amount and form of remuneration, job classification, and civil service plans.

History. Acts 1967, No. 36, § 7; A.S.A. 1947, § 19-807; Acts 2003, No. 1185, § 32.

14-48-108. Calling of elections for directors and mayor.

(a)(1) Within ten (10) days after the designation of the four (4) wards, the Secretary of State by proclamation in accordance with § 7-11-101 et seq. shall call special primary and general elections to be held in the municipality for the purpose of electing seven (7) directors and a mayor.

(2)(A) The primary election shall be held in accordance with § 7-11-101 et seq.

(B) The special general election shall be held in accordance with § 7-11-101 et seq.

(b) These elections shall be called and conducted, and the results shall be determined and certified, as provided in § 14-48-109.

History. Acts 1967, No. 36, § 4; A.S.A. 1947, § 19-804; Acts 2005, No. 2145, § 36; 2007, No. 1049, § 55; 2009, No. 1480, § 73.

A.C.R.C. Notes. Pursuant to § 1-2-207, subsection (a)(2) is set out as amended by Acts 2007, No. 1049, § 55. Acts 2007, No. 234, § 1, also amended subsection (a)(2) of this section to read as follows:

"(2)(A)(i) The primary election shall be held not less than thirty (30) days nor more than seventy-five (75) days from the date of the proclamation.

"(ii) The primary election shall occur on the second Tuesday of any month, except as provided in subdivisions (a)(2)(A)(iii)-(vi) of this section.

"(iii) A primary election held in a month in which a presidential preferential primary election, preferential primary election, general primary election, or general election is scheduled to occur shall be held on the date of the presidential preferential primary election, preferential primary election, general primary election, or general election.

"(iv) If a primary election is held on the date of the presidential preferential primary election, preferential primary election, or general primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party. However, separate ballots containing only the issue or issues to be voted upon at the primary election shall be prepared and made available to voters requesting a separate ballot.

"(v) No voter shall be required to vote in a political party's presidential preferential primary, preferential primary, or general primary in order to be able to vote in the primary election.

"(vi) A primary election scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month.

"(B) The general election shall be held on the second Tuesday of the month following the primary election, except as provided in subdivisions (a)(2)(A)(iii)-(vi) of this section."

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in three places in (a).

14-48-109. Election of directors and mayor — Oath.

(a) Candidates for the office of director and mayor shall be nominated and elected as follows:

(1)(A)(i) A special election for the election of the initial membership of the board of directors and mayor shall be called by the Secretary of State as provided in § 14-48-108.

(ii) The proclamation shall be published in accordance with § 7-11-101 et seq.

(iii) For the initial election of directors and mayor, any person desiring to become a candidate shall file within twenty (20) days following the date of the proclamation by the Secretary of State with the city clerk or recorder a statement of candidacy in the form and with the supporting signatures as provided in this section. In all other respects, the initial elections shall be governed by the provisions of this chapter for holding municipal elections.

(B)(i) Special elections to fill any vacancy under § 14-48-115 shall be called through a resolution of the board.

(ii) A proclamation of the election shall be signed by the mayor and published in accordance with § 7-11-101 et seq. in some newspaper having a bona fide circulation in the municipality;

(2)(A) Candidates to be voted on at all elections to be held under the provisions of this chapter shall be nominated by primary election, and no names shall be placed upon the general election ballot except those selected in the manner prescribed in this chapter.

(B)(i) The primary elections, other than the initial primary, for those nominations for offices to be filled at the municipal general election shall be held on the second Tuesday of August preceding the municipal general election.

(ii)*(a)* The elections shall be under the supervision of the county board of election commissioners, and the election judges and clerks appointed for the general election shall be the judges and clerks of the primary elections.

(b) Primary elections shall be held in the same places as are designated for the general election, so far as possible, and shall, so far as practicable, be conducted in the same manner as other elections under the laws of this state;

(3) Any person desiring to become a candidate for mayor or director shall file with the city clerk not less than seventy-five (75) days nor more than ninety (90) days prior to the primary election by 12:00 noon a statement of his or her candidacy in substantially the following form:

"STATE OF ARKANSAS

COUNTY OF .....

I, ..., being first duly sworn, state that I reside at ..... Street, City of ....., County and State aforesaid; that I am a qualified elector of said city and the ward in which I reside; that I am a candidate for nomination to the office of _____, to be voted upon at the primary election
(Mayor) (Director)
to be held on the .... day of ...., 20...., and I hereby request that my name be placed upon the official primary election ballot for nomination

by such primary election for such office and I herewith deposit the sum of ten dollars ($10.00), the fee prescribed by law.";

(4) The statement of candidacy and the petition for nomination supporting the candidacy of each candidate to be voted upon at any general or special election shall be filed with the city clerk or recorder not less than seventy-five (75) days nor more than ninety (90) days before the election by 12:00 noon;

(5) The name of each candidate shall be supported by a petition for nomination signed by at least fifty (50) qualified electors of the municipality requesting the candidacy of the candidate. The petition shall show the residence address of each signer and carry an affidavit signed by one (1) or more persons in which the affiant or affiants shall vouch for the eligibility of each signer of the petition. Each petition shall be substantially in the following form:

"The undersigned, duly qualified electors of the City of ....., Arkansas, each signer hereof residing at the address set opposite his or her signature, hereby requests that the name of ..... be placed on the ballot as a candidate for election to Position No. .... on the Board of Directors (or Mayor) of said City of ..... at the election to be held in such city on the..... day of ..... 20.... We further state that we know said person to be a qualified elector of said city and a person of good moral character and qualified in our judgment for the duties of such office";

(6)(A) A petition for nomination shall not show the name of more than one (1) candidate.

(B) The name of the candidate mentioned in each petition, together with a copy of the election proclamation if the election is a special election, shall be certified by the city clerk or recorder to the county board of election commissioners not less than seventy (70) days before the election unless the clerk or recorder finds that the petition fails to meet with the requirements of this chapter.

(C)(i) Whether the names of the candidates so certified to the county board of election commissioners are to be submitted at a biennial general election or at a special election held on a different date, the county board of election commissioners shall have general supervision over the holding of each municipal election.

(ii)*(a)* In this connection, the election board shall post the nominations, print the ballots, establish the voting precincts, appoint the election judges and clerks, determine and certify the results of the election, and determine the election expense chargeable to the city, all in the manner prescribed by law in respect to general elections; it is the intention of this chapter that the general election machinery of this state shall be utilized in the holding of all general and special elections authorized under this chapter.

(b) The result of the election shall be certified by the election board to the city clerk or recorder;

(7) The names of all candidates at the election shall be printed upon the ballot in an order determined by draw. If more than two (2)

candidates qualify for an office, the names of all candidates shall appear on the ballot at the primary election;

(8)(A) If no candidate receives a majority of the votes cast in the primary, the two (2) candidates receiving the highest number of votes for mayor and for each director position to be filled shall be the nominees for those respective offices to be voted upon in the general election.

(B) If no more than two (2) persons qualify as candidates for the office of mayor or for any director position to be filled, no municipal primary election shall be held for these positions, and the names of the two (2) qualifying candidates for each office or position shall be placed upon the ballot at the municipal general election as the nominees for the respective positions. Primary elections shall be omitted in wards in which no primary contest is required.

(C) In any case in which only one (1) candidate shall have filed and qualified for the office of mayor or any director position, or if a candidate receives a clear majority of the votes cast in a primary election, that candidate shall be declared elected. The name of the person shall be certified as elected without the necessity of putting the person's name on the general municipal election ballot for the office; and

(9) Any candidate defeated at any municipal primary election or municipal general election may contest it in the manner provided by law for contesting other elections.

(b) Each member of the board of directors, before entering upon the discharge of his or her duties, shall take the oath of office required by Arkansas Constitution, Article 19, § 20.

History. Acts 1967, No. 36, §§ 5, 9; 1971, No. 439, § 1; A.S.A. 1947, §§ 19-805, 19-809; Acts 1989, No. 347, §§ 2, 3; 1989, No. 905, § 7; 1997, No. 879, §§ 1, 2; 2005, No. 67, §§ 27, 28; 2005, No. 489, §§ 1, 2; 2007, No. 1049, § 56; 2009, No. 1480, § 74; 2013, No. 313, §§ 1, 2.

A.C.R.C. Notes. Pursuant to § 1-2-207, subsection (a) is set out as amended by Acts 2007, No. 1049, § 56. Acts 2007, No. 580, § 1 also amended subsection (a) to read as follows:

"(a) Candidates for the office of director and mayor shall be nominated and elected as follows:

"(1)(A)(i) A special election for the election of the initial membership of the board of directors and mayor shall be called by the Secretary of State as provided in § 14-48-108.

"(ii) The proclamation shall be published through one (1) insertion in some newspaper having a bona fide circulation in the municipality. The publication shall be not less than eighty (80) days before the date of the primary election.

"(iii) For the initial election of directors and mayor, any person desiring to become a candidate shall file within twenty (20) days following the date of the proclamation by the Secretary of State with the city clerk or recorder a statement of candidacy in the form and with the supporting signatures as provided in this section. In all other respects, the initial elections shall be governed by the provisions of this chapter for holding municipal elections.

"(B)(i) Special elections to fill any vacancy under § 14-48-115 shall be called through a resolution of the board.

"(ii) A proclamation of the election shall be signed by the mayor and published not less than eighty (80) days prior to the date of the election in some newspaper having a bona fide circulation in the municipality;

"(2)(A) Candidates to be voted on at all elections to be held under the provisions of this chapter shall be nominated by pri-

mary election, and no names shall be placed upon the general election ballot except those selected in the manner prescribed in this chapter.

"(B)(i) The primary elections, other than the initial primary, for those nominations for offices to be filled at the municipal general election shall be held on the second Tuesday of August preceding the municipal general election.

"(ii)(a) The elections shall be under the supervision of the county board of election commissioners, and the election judges and clerks appointed for the general election shall be the judges and clerks of the primary elections.

"(b) Primary elections shall be held in the same places as are designated for the general election, so far as possible, and shall, so far as practicable, be conducted in the same manner as other elections under the laws of this state;

"(3) Any person desiring to become a candidate for mayor or director shall file with the city clerk not less than sixty (60) days nor more than eighty (80) days prior to the primary election by twelve o'clock noon a statement of his or her candidacy in substantially the following form:

'STATE OF ARKANSAS

COUNTY OF.....

I,....., being first duly sworn, state that I reside at.....Street, City of....., County and State aforesaid; that I am a qualified elector of said city and the ward in which I reside; that I am a candidate for nomination to the office of....., to be voted .....

(Mayor) (Director)

upon at the primary election to be held on the....day of ....., 20...., and I hereby request that my name be placed upon the official primary election ballot for nomination by such primary election for such office and I herewith deposit the sum of ten dollars ($10.00), the fee prescribed by law.';

"(4) The statement of candidacy and the petition for nomination supporting the candidacy of each candidate to be voted upon at any general or special election shall be filed with the city clerk or recorder not less than sixty (60) days nor more than eighty (80) days before the election by twelve o'clock noon;

"(5) The name of each candidate shall be supported by a petition for nomination signed by at least fifty (50) qualified electors of the municipality requesting the candidacy of the candidate. The petition shall show the residence address of each signer and carry an affidavit signed by one (1) or more persons in which the affiant or affiants shall vouch for the eligibility of each signer of the petition. Each petition shall be substantially in the following form:

"The undersigned, duly qualified electors of the City of....., Arkansas, each signer hereof residing at the address set opposite his or her signature, hereby requests that the name of.....be placed on the ballot as a candidate for election to Position No....on the Board of Directors (or Mayor) of said City of.....at the election to be held in such city on the....day of.....20....We further state that we know said person to be a qualified elector of said city and a person of good moral character and qualified in our judgment for the duties of such office;

"(6)(A) A petition for nomination shall not show the name of more than one (1) candidate.

"(B) The name of the candidate mentioned in each petition, together with a copy of the election proclamation if the election is a special election, shall be certified by the city clerk or recorder to the county board of election commissioners not less than thirty-five (35) days before the election unless the clerk or recorder finds that the petition fails to meet with the requirements of this chapter.

"(C)(i) Whether the names of the candidates so certified to the county board of election commissioners are to be submitted at a biennial general election or at a special election held on a different date, the county board of election commissioners shall have general supervision over the holding of each municipal election.

"(ii)(a) In this connection, the election board shall post the nominations, print the ballots, establish the voting precincts, appoint the election judges and clerks, determine and certify the results of the election, and determine the election expense chargeable to the city, all in the manner prescribed by law in respect to general elections; it is the intention of this chapter that the general election machinery of this state shall be utilized in the

holding of all general and special elections authorized under this chapter.

"(b) The result of the election shall be certified by the election board to the city clerk or recorder;

"(7) The names of all candidates at the election shall be printed upon the ballot in an order determined by draw. If more than two (2) candidates qualify for an office, the names of all candidates shall appear on the ballot at the primary election;

"(8)(A) If no candidate receives a majority of the votes cast in the primary, the two (2) candidates receiving the highest number of votes for mayor and for each director position to be filled shall be the nominees for those respective offices to be voted upon in the general election.

"(B) If no more than two (2) persons qualify as candidates for the office of mayor or for any director position to be filled, no municipal primary election shall be held for these positions, and the names of the two (2) qualifying candidates for each office or position shall be placed upon the ballot at the municipal general election as the nominees for the respective positions. Primary elections shall be omitted in wards in which no primary contest is required.

"(C) In any case in which only one (1) candidate shall have filed and qualified for the office of mayor or any director position, or if a candidate receives a clear majority of the votes cast in a primary election, that candidate shall be declared elected. The name of the person shall be certified as elected without the necessity of putting the person's name on the general municipal election ballot for the office;

"(9) Any candidate defeated at any municipal primary election or municipal general election may contest it in the manner provided by law for contesting other elections."

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in (a)(1)(A)(ii) and (a)(1)(B)(ii).

The 2013 amendment substituted "seventy-five (75) days" for "seventy (70) days" in (a)(3) and (a)(4).

14-48-110. Board of directors and mayor generally.

(a)(1) The seven (7) directors elected by a city reorganized under this chapter shall be known and designated as the board of directors of the city.

(2) The board of directors of the city shall constitute the legislative and executive body of the city, subject to the powers of the mayor in § 14-48-111, and shall be vested with all powers and authority which, immediately prior to the effective date of the reorganization, were vested under then-existing laws, ordinances, and resolutions in the governing body of the city and in its board of public affairs subject to the powers of the city administrator in § 14-48-117.

(3) Except when expressly permitted under this chapter, the mayor or director may not serve the city in any other capacity.

(b)(1) The positions upon the board of directors shall, for election purposes, be permanently designated as positions, numbered respectively, one, two, three, four, five, six, and seven.

(2)(A) Each candidate for election to membership on the board of directors of the city shall specify the position for which he or she is running.

(B) The electors shall vote separately on the candidates for each position, and the position sought by each candidate shall be shown on the ballot.

(c)(1) Except in the instances in which the mayor and directors are elected at special elections as provided in §§ 14-48-108 and 14-48-109,

the mayor and directors shall be elected at the general elections held biennially for the election of state and county offices.

(2) Each such general election shall be utilized for the election of successors to the mayor and to those directors whose terms expire on December 31 following the election.

(d)(1) All primary, general, and special elections of the mayor and directors shall be nonpartisan, and the ballots shall show no party designation.

(2)(A) In all primary, general, and special elections, each candidate for the office of mayor or director shall be elected by the electors of the city as follows:

(i) The persons elected to fill director positions one, two, three, and four, respectively, shall be qualified electors of the respective wards and shall be elected by the qualified electors of the respective wards; and

(ii) The persons elected to fill the position of mayor and director positions five, six, and seven, respectively, shall be qualified electors of the city and shall be elected by the qualified electors of the entire city.

(B) Neither the mayor nor a director shall be prohibited from holding successive terms of office.

(C)(i)*(a)* The persons elected to fill director positions one, two, three, and four, respectively, shall continue to reside in the ward from which he or she was elected for the term for which he or she was elected.

(b) The persons elected to fill the position of mayor and director positions five, six, and seven, respectively, shall continue to reside in the city from which he or she was elected for the term for which he or she was elected.

(ii) If a duly elected director shall cease to reside in the ward or the city from which he or she was elected, the director shall be disqualified to hold the office and a vacancy shall exist that shall be filled as prescribed by law.

(e)(1) The mayor and any director elected at a special election shall take office on the first Monday following the certification, as required in this chapter, of his or her election.

(2) The mayor and any director elected at a general election shall take office on January 1 following his or her election.

(f)(1) At any primary, general, or special election for the election of the mayor or any director, any adult person who has resided within the municipality for at least six (6) months and is qualified to vote at an election of county or state offices shall be deemed a qualified elector.

(2) Any person twenty-one (21) years of age or older possessing these same qualifications also shall be eligible to run for the office of mayor or director.

(g) When a city is reorganized under this chapter, the mayor and board of directors will be divided into two (2) classes, and the tenure of office of those in each class shall be as follows:

(1) Director positions one, two, three, and four shall be Class Number One. Class Number One directors shall serve until and including December 31 following the first general election held after their terms of office commence and until their successors have been elected and qualified. Thereafter, those in Class Number One shall serve four-year terms; and

(2) The mayor and director positions five, six, and seven shall be Class Number Two. Class Number Two directors shall serve until and including December 31 following the second general election held after their term of office commence, and until their successors have been elected and qualified. Thereafter, those in Class Number Two shall serve four-year terms.

History. Acts 1967, No. 36, § 6; 1979, No. 69, § 1; A.S.A. 1947, § 19-806; Acts 2009, No. 27, § 1.

Amendments. The 2009 amendment inserted (d)(2)(C), and made related and stylistic changes.

14-48-112. Assistant mayor or vice mayor.

(a)(1) The board of directors shall elect from its membership an assistant mayor or vice mayor who shall serve in that capacity for two (2) years or until his or her tenure of office as a director expires, whichever is shorter.

(2) The assistant mayor or vice mayor shall not be prohibited from serving in that capacity for more than one (1) term.

(b)(1) The assistant mayor or vice mayor shall act as mayor during the absence or disability of the mayor.

(2)(A) If a vacancy in the office of mayor occurs, the assistant mayor or vice mayor shall perform the duties of mayor until a successor mayor is elected.

(B)(i) If the mayor is continuously absent or disabled for more than six (6) months, his or her office will automatically become vacant, and a successor mayor shall be elected.

(ii)*(a)* A certificate of the city clerk or recorder recorded in the record of the proceedings of the board as to the absence or disability of the mayor or as to any vacancy in the office of mayor may be relied upon by all persons dealing with the municipality as conclusive evidence of the assistant mayor's or vice mayor's authority to assume the powers of the mayor.

(b)(1) Where any such certificate is so recorded, upon the termination of the absence or disability of the mayor and the resumption by him or her of his or her official duties, the city clerk or recorder shall record in the records of the board a separate certificate attesting that fact.

(2) This separate certificate shall show the date of the termination of absence or disability and resumption of duties.

History. Acts 1967, No. 36, § 8; A.S.A. 1947, § 19-808; Acts 2009, No. 27, § 2.

Amendments. The 2009 amendment inserted "or vice mayor" in the section

heading and inserted "or vice mayor" or variant throughout the section; and made minor stylistic changes.

14-48-114. Removal of mayor or directors.

(a) Any person holding the office of mayor and any person holding the office of member of the board of directors of any city organized under the provisions of this chapter shall be subject to removal from the office by the electors qualified to vote for a successor of the incumbent.

(b) The procedure to effect the removal of a person holding the office shall be as follows:

(1) When petitions requesting the removal of any such officer, signed by qualified electors equal in number to thirty-five percent (35%) of the total number of votes cast for all candidates for that office at the preceding general municipal election at which the office was on the ballot, are filed with the city clerk, the clerk shall determine the sufficiency of the petitions within ten (10) days from the date of the filing;

(2) If the petitions are deemed sufficient, the clerk shall certify them to the county board of election commissioners;

(3) The county board of election commissioners shall issue a proclamation in accordance with § 7-11-201 et seq., calling a special election on the question and shall fix a date for holding it not more than ninety (90) days from the date of the certification of the petitions by the clerk.

(4) At the election, the question shall be submitted to the electors in substantially the following form:

"FOR the removal of _____
(name of officer)
from the office of
_____
(Mayor) (Director)
☐

AGAINST the removal of _____
(name of officer)
from the
office of _____
(Mayor) (Director)
☐"; and

(5)(A) If a majority of the qualified electors voting on the question at the election shall vote for the removal of the officer, a vacancy shall exist in the office.

(B) If a majority of the qualified electors voting on the question at the election shall vote against the removal of the officer, the officer shall continue to serve during the term for which elected.

(c) No recall petition shall be filed against any officer until he or she shall have held his or her office for at least six (6) months.

History. Acts 1967, No. 36, § 17; A.S.A. 1947, § 19-817; Acts 1991, No. 49, § 1; 2005, No. 2145, § 37; 2007, No. 1049, § 57; 2009, No. 1480, § 75.

Amendments. The 2009 amendment substituted "§ 7-11-201 et seq." for "§ 7-5-103(b)" in (b)(3).

RESEARCH REFERENCES

ALR. Constitutionality of state and local recall provisions. 13 A.L.R.6th 661.

14-48-115. Mayor or director vacancy.

(a) In the case of a vacancy in the office of mayor or in the office of a member of the board of directors as a result of death, resignation, a recall election as provided for in § 14-48-114, or for any other reason, the board, by majority vote, shall appoint a person to fill the vacancy if the vacancy occurs less than six (6) months before the next general municipal election at which the remainder of the unexpired term shall be filled.

(b) If the vacancy occurs more than six (6) months prior to the next general municipal election, a special election to fill the vacancy shall be called by proclamation issued in accordance with § 7-11-101 et seq., by:

(A) The mayor, if the vacancy is in a board position; or

(B) The highest ranking member of the board of directors, if the vacancy is in the mayor's position.

History. Acts 1967, No. 36, § 10; A.S.A. 1947, § 19-810; Acts 2005, No. 2145, § 38; 2007, No. 1049, § 58; 2009, No. 1480, § 76.

A.C.R.C. Notes. Pursuant to § 1-2-207, subsection (b) is set out as amended by Acts 2007, No. 1049, § 58. Subsection (b) was also amended by Acts 2007, No. 234, § 2, to read as follows:

"(b)(1)(A) If the vacancy occurs more than (6) months prior to the next general municipal election, a special election shall be called to fill the vacancy.

"(B)(i) A primary election may be conducted to determine candidates for the special election.

"(ii)(a) The primary election shall be held not less than thirty (30) days nor more than seventy-five (75) days from the calling of the special election and shall occur pursuant to subdivision (b)(2) of this section.

"(b) The special election shall occur on the second Tuesday of the month following the primary election, except as provided in subdivisions (b)(2)(B)-(E) of this section.

"(iii) If a primary election is not conducted, the special election shall be held not less than thirty (30) days nor more than seventy-five (75) days from the calling of the special election.

"(2)(A) The special election and any primary election to determine candidates for the special election shall occur on the second Tuesday of any month, except as provided in subdivisions (b)(2)(B)-(E) of this section.

"(B) A special election or a primary election held in a month in which a presidential preferential primary election, preferential primary election, general primary election, or general election is scheduled to occur shall be held on the date of the presidential preferential primary election, preferential primary election, general primary election, or general election.

"(C)(i) If a special election or primary election is held on the date of the presidential preferential primary election, preferential primary election, or general primary election, the issue or issues to be voted upon at the special election shall be included on the ballot of each political party.

"(ii) However, separate ballots containing only the issue or issues to be voted upon at the special election shall be pre-

pared and made available to voters requesting a separate ballot.

"(D) No voter shall be required to vote in a political party's presidential preferential primary, preferential primary, or general primary in order to be able to vote in the special election or primary election.

"(E) A special election or a primary election scheduled to occur in a month in which the second Tuesday is a legal holiday shall be held on the third Tuesday of the month."

Amendments. The 2009 amendment substituted "§ 7-11-101 et seq." for "§ 7-5-103(a)" in the introductory language of (b).

14-48-117. Powers and duties of city administrator.

The city administrator shall have the following powers and duties:

(1) To the extent that such authority is vested in him or her through ordinance enacted by the board of directors, he or she may supervise and control all administrative departments, agencies, offices, and employees;

(2) He or she shall represent the board in the enforcement of all obligations in favor of the city or its inhabitants which are imposed by law or under the terms of any public utility franchise upon any public utility;

(3) He or she may inquire into the conduct of any municipal office, department, or agency which is subject to the control of the board. In this connection, he or she shall be given unrestricted access to the records and files of any office, department, or agency and may require written reports, statements, audits, and other information from the executive head of the office, department, or agency;

(4) He or she shall nominate, subject to confirmation by the board, persons to fill all vacancies at any time occurring in any office, employment, board, authority, or commission to which the board's appointive power extends. He or she may remove from office all officials and employees including, but not limited to, members of any board, authority, or commission who, under existing or future laws, whether applicable to cities under the aldermanic, manager, or commission form of government, may be removed by the city's legislative body. Removal by the city administrator shall be approved by the board. Where, under the statute applicable to any specific employment or office, the incumbent may be removed only upon the vote of a specified majority of the city's legislative body, the removal of the person by the city administrator may be confirmed only upon the vote of the specified majority of the board members. However, the provisions of this subdivision (4) shall have no application to offices and employments controlled by any civil service or merit plan lawfully in effect in the city;

(5)(A) To the extent that, and under such regulations as, the board may by ordinance prescribe:

(i) He or she may contract for and purchase, or issue purchase authorizations for, supplies, materials, and equipment for the various offices, departments, and agencies of the city government, and he or she may contract for, or authorize contracts for, services to be rendered to the city or for the construction of municipal improve-

ments. In this connection, the board shall by ordinance establish a maximum amount, and each contract, purchase, or authorization exceeding the amount so established shall be effected after competitive bidding as required in § 14-48-129;

(ii) He or she may approve for payment, out of funds previously appropriated for that purpose, or disapprove any bills, debts, or liabilities asserted as claims against the city. The board shall by ordinance establish, in that connection, a maximum amount, and the payment or disapproval of each bill, debt, or liability exceeding that amount shall require the confirmation of the board, or of a committee of directors created by the board for that purpose;

(iii) He or she may sell or exchange any municipal supplies, materials, or equipment. However, the board shall by ordinance establish a maximum value above which no item or lot designated to be disposed of as one (1) unit of supplies, materials, or equipment shall be sold or exchanged without competitive bidding unless the city administrator shall certify in writing that, in his or her opinion, the fair market value of the item or lot is less than the amount established by the ordinance as prescribed;

(iv) He or she may transfer to any office, department, or agency or he or she may transfer from any office, department, or agency to another office, department, or agency any materials and equipment.

(B) For the purpose of assisting the city administrator in transactions arising under subdivisions (5)(A)(i), (ii), and (iii) of this section, the board may appoint one (1) or more committees to be selected from its membership. In the alternative, the board may create one (1) or more offices or departments to be composed of personnel approved by the city administrator. If, for such purposes, the board shall create any new office or department, the person appointed to fill the office or to head the department shall be responsible to the city administrator and act under his or her direction;

(6) He or she shall prepare the municipal budget annually and submit it to the board for its approval or disapproval and be responsible for its administration after adoption;

(7) He or she shall prepare and submit to the board, within sixty (60) days after the end of each fiscal year, a complete report on the finances and administrative activities of the city during the fiscal year;

(8) He or she shall keep the board advised of the financial condition and future needs of the city and make such recommendations as to him or her may seem desirable;

(9) He or she shall sign all municipal warrants when authorized by the board to do so;

(10) He or she shall have all powers, except those involving the exercise of sovereign authority, which, under statutes applicable to municipalities under the aldermanic form of government or under ordinances and resolutions of the city in effect at the time of its reorganization, may be vested in the mayor;

(11) He or she shall perform such additional duties and exercise such additional powers as may by ordinance be lawfully delegated to him or her by the board;

(12) He or she shall be the executive officer of the boards of improvement and shall, under the direction of those boards, supervise all work done by them.

History. Acts 1967, No. 36, § 11; A.S.A. 1947, § 19-811; Acts 2003, No. 1185, § 33.

14-48-119. [Repealed.]

Publisher's Notes. This section, concerning election of municipal judges, is repealed by Acts 2003, No. 1185, § 34. The section was derived from Acts 1967, No. 36, § 7; A.S.A. 1947, § 19-807.

14-48-120. Meetings of board of directors.

RESEARCH REFERENCES

Ark. L. Rev. Note, Harris v. City of Fort Smith: Arkansas's Sunshine Clouds Over, 59 Ark. L. Rev. 147.

14-48-123. Annual audit.

The board of directors shall have the financial affairs of the city audited annually by the Division of Legislative Audit of the State of Arkansas or by an independent certified public accountant who is not otherwise in the service of the city.

History. Acts 1967, No. 36, § 12; A.S.A. 1947, § 19-812; Acts 1987, No. 220, § 1; 2011, No. 623, § 2.

Amendments. The 2011 amendment inserted "the Division of Legislative Audit of the State of Arkansas or by."

14-48-124. Creation of new departments, etc.

CASE NOTES

Applicability.

In order for this section to apply to the Multi-Ethnic Committee created by the mayor, the Committee must have been shown to constitute a subdivision of city government, and appellant failed to provide any evidence that the Committee constituted anything other than a mere citizen advisory group with no authority to act for the city. McCutchen v. Patton, 340 Ark. 371, 10 S.W.3d 439 (2000).

CHAPTER 50

CIVIL SERVICE FOR CITIES OF 20,000 TO 75,000

Subchapter 3 — Civil Service System

14-50-304. Rules and regulations generally.

RESEARCH REFERENCES

Ark. L. Rev. Case Note, Lost in Translation: Combs v. City of Springdale, An Overview of the Ins and Outs of Appeals Procedure for Administrative Decisions by Local Governments, 61 Ark. L. Rev. 351.

14-50-311. Discharge or reduction in rank or compensation.

RESEARCH REFERENCES

Ark. L. Rev. Case Note, Lost in Translation: Combs v. City of Springdale, An Overview of the Ins and Outs of Appeals Procedure for Administrative Decisions by Local Governments, 61 Ark. L. Rev. 351.

CHAPTER 51

CIVIL SERVICE FOR POLICE AND FIRE DEPARTMENTS

SUBCHAPTER.
2. Board of Civil Service Commissioners.
3. Civil Service System.

Subchapter 1 — General Provisions

14-51-102. Applicability.

CASE NOTES

Cited: Barrows v. City of Fort Smith, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 38222 (W.D. Ark. May 9, 2008).

Subchapter 2 — Board of Civil Service Commissioners

SECTION.
14-51-202. Qualifications of commissioners.
14-51-208. Quorum for business.

14-51-202. Qualifications of commissioners.

(a) The commissioners shall be:

(1) Citizens of the State of Arkansas and residents of the city for more than three (3) years preceding their appointments; and

(2) Qualified electors of the city at all times during their appointments.

(b)(1) No person on the commission shall hold, or be a candidate for, any political office under any national, state, county, or municipal government or be connected in any way in any official capacity with any political party or political organization.

(2) No person as enumerated in this subsection shall be eligible as a member of the board who at the time of his or her election shall hold any office.

(c) The commissioners shall be familiar with these statutes, civil rights laws, and all other state and federal public employment laws.

History. Acts 1949, No. 326, § 1; 1971, No. 166, § 1; A.S.A. 1947, § 19-1601.1; Acts 1993, No. 206, § 3; 2009, No. 738, § 1.

Amendments. The 2009 amendment in (a) inserted (a)(2), redesignated the remaining text accordingly, and made related changes.

14-51-208. Quorum for business.

A majority of the total number of the members of a civil service commission authorized by statute and city ordinance shall constitute a quorum for any business, meeting, or hearing.

History. Acts 1949, No. 326, § 1; 1971, No. 166, § 1; A.S.A. 1947, § 19-1601.1; Acts 2013, No. 750, § 1.

Amendments. The 2013 amendment rewrote the section.

Subchapter 3 — Civil Service System

14-51-301. Rules and regulations generally.

(a)(1) The board provided for in this chapter shall prescribe, amend, and enforce rules and regulations governing the fire and police departments of their respective cities.

(2) The rules and regulations shall have the same force and effect of law.

(3) The board shall keep a record of its examinations and shall investigate the enforcement and effect of this chapter and the rules as provided for in this section.

(b) These rules shall provide for:

(1)(A) The qualifications of each applicant for appointment to any position on the police or fire department.

(B)(i) No person shall be eligible for appointment to any position on the fire department who has not arrived at twenty-one (21) years of age or who, except as provided in subdivision (b)(1)(C) of this section, has arrived at thirty-five (35) years of age.

(ii) No person shall be eligible for appointment on the police department affected by this chapter who has not arrived at twenty-one (21) years of age.

(C) Provided, however, the maximum age limit for appointment to any position with a fire department in subdivision (b)(1)(B)(i) of this section shall not apply to:

(i) Any person who has at least two (2) years of previous experience as a paid firefighter with another fire department and whose years of experience as a paid firefighter when subtracted from the person's age leaves a remainder of not more than thirty-two (32) years; or

(ii) Any person who is applying for a position with a fire department in which the primary functions of the job involve duties that are administrative, managerial, or supervisory in nature;

(2)(A) Open competitive examinations to test the relative fitness of applicants for the positions.

(B)(i) The examinations are to be protected from disclosure and copying, except that the civil service commission shall designate a period of time following the conclusion of testing in which an employee taking an examination shall be entitled to review his or her own test results.

(ii) During the employee review process, the employee may not copy test questions in any form whatsoever;

(3)(A) Public advertisement of all examinations by publication of notice in some newspaper having a bona fide circulation in the city and by posting of notice at the city hall at least ten (10) days before the date of the examinations.

(B) The examinations may be held on the first Monday in April or the first Monday in October, or both, and more often, if necessary, under such rules and regulations as may be prescribed by the board;

(4)(A)(i)*(a)* The creation and maintenance of current eligibles lists for each rank of employment in the departments, in which shall be entered the names of the successful candidates in the order of their standing in the examination. However, for ranks in each department where there may not be openings during the effective period of a list, the board may establish rules to create the eligibles list on an as-needed basis.

(b) If the board creates an eligibles list on an as-needed basis and a vacancy is created as a result of death, termination, resignation, demotion, retirement, or promotion, the chief of the fire department or police department shall notify the board within five (5) business days, and the board shall schedule an examination to establish an eligibles list from which an appointment or promotion shall be made unless the position is determined to be eliminated or not funded by the governing body of the city.

(ii)*(a)* A person is not eligible for examination for advancement from a lower rank to a higher rank until that person has served at least one (1) year in the lower rank, except in case of emergency, which emergency shall be decided by the board. The board shall

determine the rank or ranks eligible to be examined for advancement to the higher rank.

(b) If the board designates an effective period for eligible lists of more than one (1) year under subdivision (b)(4)(B)(i) of this section, a person shall be eligible for examination for advancement from a lower rank to a higher rank if the person is within twelve (12) months of meeting the time in service requirement for eligibility. However, if that person takes the examination and then is placed on the eligible list for promotion, the person shall not be promoted from the eligible list until the person meets the minimum service time requirement in the lower rank as established by the board.

(c) The eligible list for promotion shall be certified within ninety (90) days upon completion of the examination process for advancement under this section.

(B)(i)*(a)* Unless the board designates a longer effective period for eligible lists that is not less than one (1) year, nor more than two (2) years, all lists for appointments or promotions as certified by the board shall be effective for the period of one (1) year.

(b)(1) If the period of the eligible list is for more than one (1) year, the time period shall be established and certified before a component of the test is administered to an employee.

(2) After the eligible list is certified, the time period shall not be extended.

(ii) At the expiration of this period, all right of priority under the lists shall cease;

(5)(A) The rejection of candidates as eligibles who fail to comply with reasonable requirements of the board in regard to age, sex, physical condition, or who have been guilty of a felony, or who have attempted fraud or deception in connection with the examination.

(B)(i) All applicants for appointment and all applicants for reinstatement shall undergo a suitable physical examination.

(ii)*(a)* The examination shall be conducted in the manner and form as provided by law.

(b) If no provision has been made by existing law for such examination, then the board may adopt proper rules and regulations to carry this subdivision (b)(5) into effect;

(6) Certification to the department head of the three (3) standing highest on the eligibility list for appointment for that rank of service, and for the department head to select for appointment or promotion one (1) of the three (3) certified to him or her and notify the commission thereof;

(7)(A) A period of probation not to exceed twelve (12) months for potential fire department appointees and at least one (1) year but no longer than two (2) years for potential law enforcement appointees before any appointment is complete and six (6) months before any promotion is complete.

(B) During the period, the probationer may be discharged in case of an appointment or reduced in case of promotion by the chief of police or the chief of the fire department;

(8)(A) Temporary employees without examination with the consent of the commission, in cases of emergency, and pending appointment from the eligibles list.

(B)(i) Except as provided in subdivision (b)(8)(B)(iii) of this section, a temporary promotion or appointment for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not be made for longer than sixty (60) days when there is a current eligibles list.

(ii) Except as provided in subdivision (b)(8)(B)(iii) of this section, in the absence of a current eligibles list, a temporary promotion or appointment may be allowed for a vacancy created by death, termination, resignation, demotion, retirement, or promotion until an eligibles list is certified unless the position is determined to be eliminated or not funded by the governing body of the city. A temporary promotion for a vacancy created by death, termination, resignation, demotion, retirement, or promotion shall not last longer than sixty (60) days.

(iii) If an appeal is filed in connection with a vacancy that is created by a termination or demotion, the vacancy may be filled by a temporary promotion until all appeals in connection with the termination or demotion are exhausted.

(C) A vacancy that is created by vacation, bereavement leave, medical leave, military leave, or suspension on a day-to-day basis may be filled by a temporary promotion on a day-to-day basis as vacancies occur.

(D) An increase in salary beyond the limits fixed for the grade by the rules of the commission may be allowed while an employee is working outside of his or her grade while temporarily promoted to fill a vacancy under subdivision (b)(8) of this section;

(9)(A)(i) Establishing eligibility lists for promotion based upon open, competitive examinations.

(ii) The examinations are to be protected from disclosure and copying, except that the civil service commission shall designate a period of time following the conclusion of testing in which an employee taking an examination shall be entitled to review his or her own test results.

(iii) During the employee review process, the employee may not copy test questions in any form whatsoever.

(iv) The exams may include a rating of applicants based on results of written, oral, or practical examinations, length of service, efficiency ratings, and educational or vocational qualifications.

(v)*(a)* Lists shall be created for each rank of service and promotions made from the lists as provided in this section.

(b) Promotions shall be made within sixty (60) calendar days of a vacancy created by death, termination, resignation, demotion, retirement, or promotion unless the position is determined to be eliminated.

(B) Advancement in rank or increase in salary beyond the limits fixed for the grade by the rules of the commission shall constitute a promotion;

(10)(A) Suspension for not longer than thirty (30) calendar days; and

(B) Leave of absence;

(11)(A) Discharge or reduction in rank or compensation after promotion or appointment is complete, only after the person to be discharged or reduced has been presented with the reasons for the discharge or reduction in writing.

(B)(i) The person so discharged or reduced shall have the right, within ten (10) days from the date of notice of discharge or reduction, to reply in writing.

(ii) Should the person deny the truth of the reasons upon which the discharge or reduction is predicated and demand a trial, the commission shall grant a trial as provided in this chapter.

(iii) The reasons and the reply shall constitute a part of the trial and be filed with the record;

(12) The adoption and amendment of rules after public notice and hearing;

(13) The preparation of a record of all hearings and other proceedings before it, which shall be stenographically reported; and

(14) A review of complaints filed by any citizen pursuant to rules promulgated by the commission, including rules that give the commission the authority to consider certain personnel issues in executive session and to establish any necessary appellate procedures.

(c)(1) The board may prescribe, amend, and enforce rules and regulations that provide for and apply to a category of police officers whose promotion to any rank or grade below that of sergeant is exempted, in whole or in part, from subdivisions (b)(4) and (b)(9) of this section.

(2) If the board prescribes the rules and regulations authorized in subdivision (c)(1) of this section, the board shall prescribe criteria for the promotions.

(d) The commission shall adopt such rules not inconsistent with this chapter for necessary enforcement of this chapter, but shall not adopt any rule or rules which would authorize any interference with the day-to-day management or operation of a police or fire department.

History. Acts 1933, No. 28, § 3; Pope's Dig., § 9947; Acts 1959, No. 205, § 1; 1973, No. 101, § 1; 1977, No. 450, § 1; A.S.A. 1947, § 19-1603; Acts 1987, No. 262, § 1; 1987, No. 276, § 1; 1987, No. 657, § 3; 1989, No. 439, § 2; 1993, No. 206, § 8; 1995, No. 473, § 1; 1997, No. 542, § 1; 1997, No. 1221, § 1; 1999, No. 303, § 1; 2001, No. 1597, § 1; 2003, No. 280, § 1; 2005, No. 1953, § 1; 2007, No. 743, § 1; 2009, No. 527, §§ 1, 2; 2011, No. 1029, § 1; 2013, No. 468, § 1; 2013, No. 1061, § 2.

Amendments. The 2009 amendment inserted (b)(4)(B)(i)*(b)*, redesignated the remaining text of (b)(4)(B)(i) accordingly, and inserted "of employment or promotion" in (b)(8)(B).

The 2011 amendment added (b)(4)(A)(i)*(b)*; rewrote (b)(8)(B); added (b)(8)(C); and added (b)(9)(A)(v)*(b)*.

The 2013 amendment by No. 468, in (b)(4)(A)(ii), substituted "A person is not" for "No person shall be" and "has" for "shall have"; and added (b)(4)(A)(ii)*(c)*.

The 2013 amendment by No. 1061 inserted "for potential fire department appointees and at least one (1) year but no

longer than two (2) years for potential law enforcement appointees" in (b)(7)(A).

CASE NOTES

Discharges or Reductions.

Fired police department administrator's U.S. Const., Amend. XIV due process violation claim failed as a matter of law because although the administrator claimed that his due process rights were violated because he was not provided with a meaningful opportunity to be heard prior to his discharge, the record showed that he was afforded the opportunity to be heard both pre-determination and post-deprivation, but that he opted not to exhaust those remedies. The administrator received prior notice of the disciplinary charges lodged against him, he was offered, but declined to participate in, a pre-determination hearing, his termination was reviewed by a civil service commission, as provided for by this section, and pursuant to § 14-51-308, he could have sought judicial review of the commission's decision, but he chose not to do so. Barrows v. City of Fort Smith, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 38222 (W.D. Ark. May 9, 2008).

Fire chief's letter gave a firefighter sufficient notice that the firefighter's conduct of fleeing from law enforcement officers was the reason for the firefighter's termination, satisfying the requirement of presenting the reason for a discharge in writing under subdivision (b)(11)(A) of this section; accordingly, the firefighter's argument that the firefighter's termination was not in accordance with state law was without merit. Lawrence v. City of Texarkana, 2011 Ark. 42, 378 S.W.3d 127 (2011).

14-51-302. Departmental rules and regulations.

CASE NOTES

Cited: Barrows v. City of Fort Smith, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 38222 (W.D. Ark. May 9, 2008).

14-51-308. Suspension, discharge, or reduction in rank or compensation.

(a)(1) No civil service employee shall be discharged, reduced in rank or compensation, or suspended for three (3) or more days without being notified in writing of the discharge, reduction in rank or compensation, or the suspension for three (3) or more days and its cause.

(2) In case of suspension, discharge, or reduction, the affected or accused person shall have written notice of the action at the time action is taken.

(b)(1) Within ten (10) days after the notice in writing is served upon the officer, private, or employee, the person may request a trial before the board of civil service commissioners on the charges alleged as the grounds for discharge, reduction, or suspension for three (3) days or more if he or she so desires.

(2)(A) In the event a request for trial is made, the municipal civil service commission shall fix a date for the trial not more than fifteen (15) days after the request is made.

(B)(i) If the request for trial is not made within ten (10) days from the date of service of notice, the discharge, reduction, or suspension

for three (3) days or more shall become final and no trial shall be granted after that date.

(ii) The appeal shall be taken by filing a notice of appeal with the commission within thirty (30) days from the date of the decision. The responsibility of filing an appeal and paying for the transcript of the proceedings before the commission shall be borne by the party desiring to appeal the commission's decision.

(iii) The commission, upon receiving notice of an appeal, will prepare a written order containing its decision and ensure that the transcript and evidence be made available for filing in the circuit court once the appealing party has paid the cost of preparing the transcript.

(iv) However, if the court determines that the party appealing the commission's decision took the appeal in good faith and with reasonable cause to believe he or she would prevail, the commission shall reimburse the appealing party for the cost of the transcript.

(c)(1) In the event of a trial, the officer, private, or employee requesting the trial shall be notified of the date and place of the trial at least ten (10) days prior to the date thereof.

(2) The officer, private, or employee shall have compulsory process to have witnesses present at the trial.

(d)(1) The chair of the commission shall preside at all trials and shall determine and decide all questions relative to pleadings and the admissibility of evidence.

(2) The decision of the commission shall be by a majority vote of the members of the commission.

(e)(1)(A) A right of appeal by the city or employee is given from any decision of the commission to the circuit court within the jurisdiction of which the commission is situated.

(B)(i) The appeal shall be taken by filing with the commission, within thirty (30) days from the date of the decision, a notice of appeal. The responsibility of filing an appeal and paying for the transcript of the proceedings before the municipal civil service commission shall be borne by the party desiring to appeal the commission's decision.

(ii) The commission will upon receiving notice of an appeal prepare a written order containing its decision and ensure that the transcript and evidence be made available for filing in the circuit court once the appealing party has paid the cost of preparing the transcript.

(iii) However, if the court determines that the party appealing the commission's decision took the appeal in good faith and with reasonable cause to believe he or she would prevail, the commission shall reimburse the appealing party for the cost of the transcript.

(iv) The circuit court may award reasonable attorney's fees to the prevailing party for the proceedings in circuit court.

(C)(i) The court shall review the commission's decision on the record and may, in addition, hear testimony or allow the introduction of any further evidence upon the request of either the city or the employee.

(ii) The testimony or evidence must be competent and otherwise admissible.

(2)(A) A right of appeal is also given from any action from the circuit court to the Supreme Court.

(B) The appeal shall be governed by the rules of procedure provided by law for appeals from the circuit court to the Supreme Court.

(f) In the event that it is finally determined that there was a wrongful suspension, discharge, or reduction in rank of any employee, the employee shall be entitled to judgment against the city for whatever loss he or she may have sustained by reason of his or her suspension, discharge, or demotion, taking into consideration any remuneration which the officer, private, or employee may have received from other sources pending the final determination of his or her case.

History. Acts 1933, No. 28, § 13; Pope's Dig., § 9957; Acts 1949, No. 326, § 2; 1959, No. 205, § 2; A.S.A. 1947, §§ 19-1605.1, 19-1613; Acts 1991, No. 244, § 1; 2001, No. 1441, § 1; 2003, No. 1815, § 1; 2013, No. 994, § 1.

Amendments. The 2013 amendment added (e)(1)(B)(iv).

RESEARCH REFERENCES

Ark. L. Rev. Case Note, Lost in Translation: Combs v. City of Springdale, An Overview of the Ins and Outs of Appeals Procedure for Administrative Decisions by Local Governments, 61 Ark. L. Rev. 351.

CASE NOTES

Analysis

Constitutionality.
Appeals.
—In General.
—Circuit Court.
—Supreme Court.

Constitutionality.

Fired police department administrator's U.S. Const., Amend. XIV due process violation claim failed as a matter of law because although the administrator claimed that his due process rights were violated because he was not provided with a meaningful opportunity to be heard prior to his discharge, the record showed that he was afforded the opportunity to be heard both pre-determination and post-deprivation, but that he opted not to exhaust those remedies. The administrator received prior notice of the disciplinary charges lodged against him, he was offered, but declined to participate in, a pre-determination hearing, his termination was reviewed by a civil service commission, as provided for by § 14-51-301, and pursuant to this section, he could have sought judicial review of the commission's decision, but he chose not to do so. Barrows v. City of Fort Smith, — F. Supp. 2d —, 2008 U.S. Dist. LEXIS 38222 (W.D. Ark. May 9, 2008).

Appeals.

—In General.

Even assuming without deciding that subdivision (e)(1)(B) of this section was applicable to the terminated police chief, the chief would have had 30 days from the entry of the civil service commission's written decision to file a record with the circuit court or to file an affidavit showing that the chief had requested a record from the commission pursuant to Ark. Inf. Ct. R. 9(c); the circuit court was correct in its finding that the chiref's failure to comply with the filing requirements of Ark. Inf. Ct. R. 9 required the dismissal of the case. Clark v. Pine Bluff Civ. Serv. Comm'n, 353 Ark. 810, 120 S.W.3d 541 (2003).

This section is silent on the procedure to be followed in perfecting an appeal from a civil service commission to the circuit court, thus, once the requirements of sub-

division (e)(1)(B) are met, an appeal from a decision of the civil service commission to circuit court should proceed in accordance with the rules of the Arkansas Supreme Court governing an appeal from inferior courts, specifically Ark. Inf. Ct. R. 9. Clark v. Pine Bluff Civ. Serv. Comm'n, 353 Ark. 810, 120 S.W.3d 541 (2003).

—Circuit Court.

Circuit court erred in affirming a decision of the Little Rock Civil Service Commission that changed a termination order issued against a fireman to a suspension followed by a one year unpaid leave of absence to complete drug rehabilitation on the grounds that the Commission's decision was supported by substantial evidence; the circuit court proceeding was in the nature of an original action and the circuit court was required to conduct a de novo review of the Commission's decision. City of Little Rock v. Hubbard, 82 Ark. App. 119, 112 S.W.3d 375 (2003).

Circuit court's judgment reversing a civil service commission's disciplining of a fireman was affirmed as the court was within its province, in its de novo review under this section, in giving credence to the fireman's evidence as to the existence of mints in his mouth during random breathalyzer tests, the effects of the mints on the tests, and the fireman's not being intoxicated. City of Little Rock v. Hudson, 366 Ark. 415, 236 S.W.3d 509 (2006).

—Supreme Court.

Fireman's appeal from his termination from the city fire department was dismissed for want of jurisdiction as the civil service commission, in affirming the termination, made no written order nor any findings of fact or conclusions of law as required by this section; accordingly, the matter was reversed and remanded so that the trial court could dismiss the appeal without prejudice, allowing the fireman to refile his appeal with the circuit court after the commission entered a written order. Lawrence v. City of Texarkana, 364 Ark. 466, 221 S.W.3d 370 (2006).

Once the requirements of subdivision (e)(1)(B) of this section have been met, an appeal from a decision of the civil service commission to circuit court should proceed in accordance with the rules of the court governing an appeal from inferior courts; thus, a party appealing a decision of the civil service commission has, pursuant to Ark. Inferior Ct. R. 9(c), thirty days from the entry of the commission's written decision to file a record with the circuit court. Barrows v. City of Fort Smith, 2010 Ark. 73, 360 S.W.3d 117 (2010).

CHAPTER 52

MUNICIPAL POLICE DEPARTMENTS

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

Effective Dates. Acts 2013, No. 1283, § 6: Emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that collection of fees for bail bonds fund various necessary programs in our state; that the law is currently unclear on the collection of these fees; and that this act is necessary because the law needs to be clear on the collection of these fees so that the programs are funded properly in a timely

manner. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

14-52-111. Fees for bail or delivery bond.

A municipal police department in this state may charge and collect a fee of twenty dollars ($20.00) for taking and entering a bail or delivery bond.

History. Acts 1997, No. 252, § 1; 2003, No. 1347, § 1; 2013, No. 1283, § 1.

Amendments. The 2013 amendment substituted "A" for "Every" at the beginning of the section, substituted "may" for "is authorized to," inserted "of twenty dollars ($20.00)" following "fee," and deleted "twenty dollar ($20.00)" preceding "fee."

14-52-112. Award of pistol and purchase of shotgun upon retirement.

(a) When a law enforcement officer employed by a city of the first class, city of the second class, or incorporated town retires from service or dies while still employed with the city of the first class, city of the second class, or incorporated town, in recognition of and appreciation for the service of the retiring or deceased law enforcement officer, the mayor, city manager, or city administrator of the city of the first class, city of the second class, or incorporated town may award the pistol carried by the law enforcement officer at the time of his or her death or retirement from service to:

(1) The law enforcement officer; or

(2) The law enforcement officer's spouse if the spouse is eligible under applicable state and federal laws to possess a firearm.

(b) When a law enforcement officer retires from service, the law enforcement officer may purchase the shotgun he or she used while on duty at the fair market value as determined by the mayor, city manager, or city administrator of the city of the first class, city of the second class, or incorporated town.

History. Acts 2007, No. 365, § 1.

14-52-113. Property exchange.

(a) A municipal police department may exchange real property or personal property with another municipal police department.

(b) An exchange of property shall be approved by the governing body of the municipality.

(c) This section does not prohibit a governing body of a municipality from authorizing:

(1) An exchange of real property or personal property by the chief of police of a municipal police department; or

(2) A property exchange clearinghouse operated by the Arkansas Association of Chiefs of Police.

History. Acts 2007, No. 433, § 1.

Subchapter 2 — Officers

14-52-201. Number of police officers.

The governing body of a municipality shall, by general ordinance, direct the number of subordinate police officers to be appointed.

History. Acts 1875, No. 1, § 53, p. 1; C. & M. Dig., § 7742; Pope's Dig., § 9938; A.S.A. 1947, § 19-1703; Acts 2013, No. 726, § 1.

Amendments. The 2013 amendment substituted "governing body of a municipality" for "city council in cities of the first class."

14-52-202. Powers and duties of police chiefs.

(a) The chief of police in a municipality shall execute all process directed to him or her by the mayor and shall, by himself or herself or by someone else on the police force, attend on the sitting of the district court to execute its orders and preserve order therein.

(b)(1) The chief of police has power to appoint one (1) or more deputies from the police force, for whose official acts he or she is responsible, and by whom he or she may execute all process directed to him or her.

(2)(A) He or she shall have power, by himself or herself or by deputy, to execute all process in any part of the county in which the district court is situated or in which the district court has jurisdiction.

(B) The person executing process under this subdivision (b)(2) shall work in coordination with the sheriff for the unincorporated areas of the county.

(3) For serving city warrants only, the chief of police or his or her deputies shall be entitled to the fees allowed to a sheriff under § 21-6-307 for similar services in similar cases.

(4) All fees collected by the police chief and his or her deputies for similar services shall be deposited into the city treasury.

(c) It is the chief of police's duty to suppress all riots, disturbances, and breaches of the peace. To that end he or she may call upon the citizens to assist him or her to apprehend all persons in the act of committing any offense against the laws of the state or the ordinances of the city, and he or she shall bring them immediately before the proper authority for examination or trial.

(d) The chief of police has power to pursue or arrest any person fleeing from justice in any part of the state and to receive and execute

any proper authority for arrest and detention of criminals fleeing or escaping from any other place or state.

(e) The chief of police has, in the discharge of his or her proper duties, like powers, and is subject to like responsibilities as sheriffs and constables in similar cases, and is required by the city council to give a bond for the faithful performance of his or her duties, in a sum as the council may require.

History. Acts 1875, No. 1, § 52, p. 1; C. & M. Dig., § 7703; Pope's Dig., § 9846; A.S.A. 1947, § 19-1702; Acts 1989, No. 726, § 1; 2013, No. 726, § 1.

Amendments. The 2013 amendment substituted "has" for "shall have" and made gender-related changes throughout the section; in (a), substituted "a municipality" for "cities of the first class" and "district" for "police" preceding "court"; inserted the (b)(2)(A) designation; substituted "district court" for "police court" and for "municipal court" in present (b)(2)(A); added (b)(2)(B); and substituted "deposited into" for "paid over to" in (b)(4)

14-52-203. Duties of police officers.

(a) In a municipality, the duty of the chief of police and other officers of the police department is under the direction of the mayor.

(b) It is their duty to:

(1) Suppress a riot, disturbance, or breach of the peace;

(2) Pursue and arrest a person fleeing from justice in any part of this state;

(3) Apprehend a person in the act of committing an offense against the laws of the state or the ordinances of the city and forthwith bring the person before the proper authority for trial or examination; and

(4) Diligently and faithfully enforce at all times all laws, ordinances, and regulations for the preservation of good order and the public welfare as the city council may ordain. For this purpose, the chief of police and other officers of the police department have all the power of constables.

History. Acts 1875, No. 1, § 53, p. 1; C. & M. Dig., § 7704; Pope's Dig., § 9847; A.S.A. 1947, § 19-1705; Acts 2013, No. 726, § 1.

Amendments. The 2013 amendment, in (a), substituted "a municipality" for "cities of the first class" and "is" for "shall be"; substituted "is" for "shall be" in the introductory language of (b); substituted "a riot, disturbance, or breach" for "all riots, disturbances, and breaches" in (b)(1); substituted "a" for the first occurrence of "any" in (b)(2); in (b)(3), substituted "a person" for "any and all persons," "an offense" for "any offenses," and "person" for "persons"; and, in (b)(4), deleted "such" preceding "laws" and substituted "the chief of police and other officers of the police department" for "they shall."

RESEARCH REFERENCES

Ark. L. Rev. City of Caddo Valley v. George: Stop or I'll Sue! Police Chases and the Price Cities May Pay, 55 Ark. L. Rev. 425 (2002).

14-52-204. Power to arrest.

In a municipality, the mayor or a police officer of the city may, upon view, arrest a person whom he or she has probable cause to believe is guilty of a breach of the ordinances of the city or of a crime against the laws of the state and may, upon reasonable information supported by affidavit, procure process for the arrest of a person who may be charged with a breach of an ordinance of the city.

History. Acts 1875, No. 1, § 53, p. 1; A.S.A. 1947, § 19-1706; Acts 2013, No. 726, § 1.

Amendments. The 2013 amendment rewrote the section.

CHAPTER 53

MUNICIPAL FIRE DEPARTMENTS

14-53-102. Firefighting beyond municipal limits.

(a)(1) In order to prevent the destruction by fire of property located outside the corporate limits of cities and towns and in order to lessen the loss caused on account of insufficient means to combat fires and as a protection against such loss, the city council or other governing body of any city or town having an organized fire department may provide by ordinance that the firefighting machinery and equipment, with the necessary firefighters to operate it, may be used to combat fires beyond the corporate limits of any city or town, upon such terms, conditions, and restrictions as may be prescribed in the ordinance.

(2)(A) If the city council or other governing body of any city or town enacts an ordinance to provide that its fire department may operate beyond its corporate limits, then the governing body of the city or town may further provide that necessary facilities may be built or constructed outside the corporate limits to house the firefighting machinery, equipment, and the firefighters in order to properly combat fires beyond the corporate limits, but only if:

(i) There are no active fire protection services offered in the area beyond the corporate limits of the city or town where the facilities are to be constructed; and

(ii) The county quorum court approves of the construction of the firefighting facilities by a county ordinance.

(B) However, a city or town may construct necessary facilities to house the firefighting equipment in areas where fire protection services currently exist if, in addition to the requirement of subdivision (a)(2)(A) of this section, the construction is approved by a unanimous vote of the board of directors of the fire department serving that area outside the corporate limits.

(b)(1)(A) When the organized fire department of a city or town combats a fire beyond the corporate limits of the city or town, a reasonable effort shall be made for ninety (90) days to obtain compensation or reimbursement for the services from the property owner involved.

(B) If the city or town is unable to obtain payment or reimbursement from the property owner for the services within the ninety-day period, the county wherein the property is located may reimburse the municipality for the service in an amount not to exceed two hundred dollars ($200).

(C)(i) A claim under this subsection shall be supported by a completed and attached Uniform Fire Department Insurance Reimbursement Billing Form.

(ii) The Arkansas Fire Protection Services Board shall adopt rules to create the form and the allowable rates for reimbursement.

(iii) The board shall use the Schedule of Equipment Rates published by the Federal Emergency Management Agency of the United States Department of Homeland Security, as in effect on January 1, 2013.

(2) The city or town may seek payment or reimbursement from the property owner involved or the county after the ninety-day period for one hundred percent (100%) of the expendable resources the city or town used to respond to an accident if the accident involved personal property only.

(c)(1) Neither the municipality nor any municipal official or fire department official or employee involved in combatting the fire shall be liable for any damages or loss that occurs while the department is combatting the fire outside the corporate limits of the city or town.

(2) The firefighters shall have the same coverage as they now have if they are injured while outside the city limits.

(d) All members of the fire department of any city or town, when engaged in fighting fire beyond the corporate limits of the city or town under the terms of any ordinance as authorized in this section, shall be considered to be acting within their line of duty and in discharge thereof. No member of the department shall lose or forfeit any right or benefit in rank, pay, disability, or retirement payments and benefits on account of out-of-city or out-of-town activities.

History. Acts 1951, No. 270, §§ 1, 2; 1957, No. 348, § 1; 1973, No. 114, §§ 1, 2; A.S.A. 1947, §§ 19-2106 — 19-2107; Acts 2001, No. 1464, § 1; 2013, No. 1345, § 1.

Amendments. The 2013 amendment redesignated former (b)(1) and (2) as present (b)(1)(A) and (B); and added (b)(1)(C) and (b)(2).

14-53-108. Uniform sick leave.

(a)(1)(A) From and after April 11, 1969, all firefighters employed by cities of the first class and cities of the second class shall accumulate sick leave in accordance with a municipal ordinance at the rate of not

less than ten (10) working days nor more than twenty (20) working days per year, beginning one (1) year after the date of employment.

(B) As used in this section, "working day" means that period of time a firefighter is on duty within a twenty-four-hour period. If the firefighter is on duty for twelve (12) hours or more in a twenty-four-hour period, a working day shall be not less than twelve (12) hours nor more than twenty-four (24) hours.

(C) The number of days of sick leave in effect for firefighters employed by cities of the first class and cities of the second class on January 1, 2005, shall remain in effect until changed by authority of a municipal ordinance, and nothing in this section shall be construed to require a reduction in the level of sick leave below the rate of twenty (20) working days per year or the rate in effect on January 1, 2005.

(2)(A) If unused, sick leave shall accumulate to a maximum of one thousand four hundred forty (1,440) hours unless the city by ordinance authorizes the accumulation of a greater amount, in no event to exceed a maximum accumulation of two thousand one hundred sixty (2,160) hours.

(B) Unused accumulated sick leave shall not be used for the purpose of computing years of service for retirement purposes.

(b)(1) In cities having sick leave provisions through ordinance, the total sick leave accumulated by the individual firefighter shall be credited to him or her and new days accumulated under the provisions of this section until the maximum prescribed in subsection (a) of this section is reached.

(2) If the governing body of the employing municipality successfully reduces the accrual rate, no firefighter shall have any previously earned sick leave reduced in value.

(3) Time off may be charged against accumulated sick leave only for the days that a firefighter is scheduled to work. No sick leave as provided in this section shall be charged against any firefighter during any period of sickness, illness, or injury for any days that the firefighter is not scheduled to work.

(c)(1) If at the end of his or her term of service, upon retirement or death, whichever occurs first, any firefighter has unused accumulated sick leave, he or she shall be paid for this sick leave at the regular rate of pay in effect at the time of retirement or death.

(2) Payment for unused sick leave in the case of a firefighter, upon retirement or death, shall not exceed three (3) months' salary unless the city, by ordinance, authorizes a greater amount, but in no event to exceed four and one-half (4 ½) months' salary.

(d)(1) Cities of the first class, cities of the second class, and incorporated towns shall have the option of providing sick leave for firefighters to accumulate at a rate of fifteen (15) twenty-four-hour working days per year beginning with the date of employment and decreasing to twelve (12) twenty-four-hour working days beginning four (4) years after employment.

(2) Unused sick leave shall accumulate to firefighters provided with fifteen (15) twenty-four-hour working days per year sick leave and twelve (12) twenty-four-hour working days per year sick leave to a maximum of one hundred (100) twenty-four-hour working days.

History. Acts 1969, No. 393, §§ 1-3; 1971, No. 241, §§ 1-3; 1983, No. 842, §§ 1-3; 1985, No. 181, § 1; 1985, No. 240, § 1; 1985, No. 892, § 1; A.S.A. 1947, §§ 19-1718 — 19-1720; Acts 1987, No. 716, § 1; 1997, No. 412, § 1; 2005, No. 1828, § 1.